6-4-84
Vol. 49 No. 108
Pages 23019-23156

Federal Register

Monday
June 4, 1984

Selected Subjects

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Proclamation 5204 of May 31, 1934

Flag Day and National Flag Week, 1984

By the President of the United States of America

A Proclamation

Over two hundred years ago, in June 1775, the first distinctive American flags to be used in battle were flown by the colonists at the Battle of Bunker Hill. One flag was an adaptation of the British Blue Ensign, while the other was a new design. Both flags bore a common device of the colonial era which symbolized the experience of Americans who had wrested their land from the forest: the pine tree.

Other flags appeared at the same time, as the colonies moved toward a final separation from Great Britain. Two featured a rattlesnake, symbolizing vigilance and deadly striking power. One bore the legend "Liberty or Death"; the other "Don't Tread on Me." The Grand Union flag was raised over Washington's Continental Army headquarters on January 1, 1776. It displayed not only the British crosses of St. Andrew and St. George, but also thirteen red and white stripes to symbolize the American colonies. The Bennington flag also appeared in 1776, with thirteen stars, thirteen stripes, and the number "76."

Two years after the Battle of Bunker Hill, on June 14, 1777, the Continental Congress chose a flag which tellingly expressed the unity and resolve of the brave colonists who had banded together to seek independence. The delegates voted "that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation."

After more than two centuries of history, and with the addition of thirty-seven stars, the Stars and Stripes chosen by the Continental Congress in 1777 is our flag today, symbolizing a shared commitment to freedom and equality.

To commemorate the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue an annual proclamation calling for its observance and the display of the Flag of the United States on all government buildings. The Congress also requested the President, by a joint resolution of June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning Sunday, June 10, 1984, as National Flag Week, and I direct the appropriate officials of the government to display the flag on all government buildings during this week. I urge all Americans to observe Flag Day, June 14, and National Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also urge the American people to celebrate those days from Flag Day through Independence Day, set aside by Congress as a time to honor America (89 Stat. 211), by having public gatherings and activities at which they can honor their country in an appropriate manner.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-14987
Filed 5-31-84; 1:11 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5205 of May 31, 1984

Citizenship Day and Constitution Week, 1984

By the President of the United States of America

A Proclamation

September 17, 1984, marks the 197th anniversary of the signing of our Constitution. As the bicentennial of this dynamic and timeless document nears, all Americans should become reacquainted with its role as our great country's guiding beacon. With this document as its blueprint, this Nation has become the finest example in history of the principle of government by law, in which every individual is guaranteed certain inalienable rights. Exemplifying this precept, a newly naturalized citizen once wrote:

"After our arrival here we very soon realized that the U.S.A. is really a wonderland: It is the first one among the few countries in the world where liberty, justice, democracy, and happiness are not only not empty slogans, but real benefits for all; where the Constitution is still as valid as it was in those days when the people of the U.S.A. ordained and established it in order to secure the blessings of liberty for themselves and their posterity. It was just natural that our next wish could not be other than to become a citizen of this wonderful country.

"And now, a few minutes after we solemnly pledged allegiance to the flag of the United States, we have just one more wish, that may God give us a long life, and ability to help at our very best in holding this flag straight up, flying as free and clear forever as it has been doing from the beginning of this country."

The Constitution provides a framework for our continuous striving to make a better America. It provides the basic balance between each branch of government, limits the power of that government, and guarantees to each of us as citizens our most basic rights. The Constitution, however, is only the outline of our system of government. It is through each individual citizen living out the ideals of the Constitution that we reach for a full expression of those ideals. Therefore, while we celebrate Citizenship Day and Constitution Week, let us rededicate ourselves to a full realization of the potential of the great country which the Founding Fathers struggled to create more than two hundred years ago.

Once each year, on September 17, all four pages of the original signed Constitution are placed on public exhibition in the Rotunda of the National Archives building in Washington, D.C. I encourage all Americans to take the opportunity to view this document, which embodies our national commitment to freedom.

In recognition of the importance of our Constitution and the role of our citizenry in shaping our government, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 153), designated September 17th of each year as Citizenship Day and authorized the President to issue annually a proclamation calling upon officials of the government to display the flag on all government buildings on that day. The Congress also, by joint resolution of August 2, 1956 (36 U.S.C. 159), requested the President to proclaim the week beginning September 17th and ending September 23rd of each year as Constitution Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, call upon appropriate government officials to display the flag of the United States on all government buildings on Citizenship Day, September 17, 1984. I urge Federal, State and local officials, as well as leaders of civic,

educational and religious organizations to conduct ceremonies and programs that day to commemorate the occasion.

I also proclaim the week beginning September 17 and ending September 23, 1984, as Constitution Week, and I urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc 84-14988
Filed 5-31-84; 1:12 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5206 of May 31, 1984

D-Day National Remembrance

By the President of the United States of America

A Proclamation

On Tuesday, June 6, 1944, General Dwight D. Eisenhower made a dramatic announcement from London:

"People of Western Europe: A landing was made this morning on the coast of France by troops of the Allied Expeditionary Force . . . The hour of your liberation is approaching."

Operation Overlord, the invasion of Adolf Hitler's "Fortress Europe" forty years ago, thrust approximately 130,000 American and Allied troops under General Eisenhower's command onto beaches now known to history as Utah, Omaha, Gold, Juno, and Sword along the coast of Normandy, France. Another 23,000 British and American airborne forces were parachuted or taken by glider to secure critical inland areas. Some 11,000 sorties were flown by allied aircraft, and innumerable sabotage operations were carried out by Resistance forces behind the lines.

On that day and in the ensuing weeks, the soldiers, sailors, and airmen of the assault forces, and the men and women who supported the landing, displayed great skill, unwavering tenacity, and courage. The Americans who landed at Omaha Beach—where sharp bluffs, strong defenses, and the presence of a powerful German division produced enormous difficulties—wrote an especially brave and noble chapter in the military history of the United States.

Opposed by bitter enemy resistance, the landing forces gained the beaches at great sacrifice, pushed inland, and expanded their beachheads. Feats of leadership and courage by individuals and small groups turned the tide. The great battles of 1944 that followed, from the hedgerows to the Ardennes, hold a place of highest honor in the tradition of the United States Armed Forces. The brave, often heroic deeds of our fellow Americans and others in the Allied Armed Forces set in motion the liberation of Europe and brought unity and pride to all free people.

Welded by the experiences of war, the old world and the new formed an enduring alliance which shared the rebuilding of Europe and forged a shield that has kept the peace in Europe for almost forty years. A common dedication to remain strong can continue that peace which these brave men and women fought so hard to secure.

In recognition of the fortieth anniversary of this historic event, the Congress, by H.J. Res. 487, has designated June 6, 1984, as "D-day National Remembrance" and has authorized and requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim June 6, 1984, as D-day National Remembrance, a national day commemorating the fortieth anniversary of D-day. I call upon the people of the United States to commemorate the valor of those who served in the D-day assault forces with appropriate ceremonies and observances.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-15032
Filed 5-31-84; 4:35 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 84-10 of May 31, 1984

Renewal of Trade Agreements With Romania and Hungary

Memorandum for the Honorable William Emerson Brock III, United States Trade Representative

Pursuant to my authority under subsection 405(b)(1) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)), I find that a satisfactory balance of concessions in trade and services has been maintained during the lives of the Agreements on Trade Relations between the United States and the Socialist Republic of Romania and the Hungarian People's Republic. I further determine that actual or foreseeable reductions in United States tariffs and non-tariff trade barriers are satisfactorily reciprocated by the Socialist Republic of Romania and by the Hungarian People's Republic.

This memorandum and the attached justification shall be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, May 31, 1984.

JUSTIFICATION FOR RENEWAL OF U.S.-ROMANIAN AND U.S.-HUNGARIAN TRADE AGREEMENTS

To renew a trade agreement with a nonmarket-economy country, the Trade Act of 1974 requires a Presidential finding that "a satisfactory balance of concessions in trade and services has been maintained" under the Agreement, and a Presidential determination that "actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations and satisfactorily reciprocated by the other party to the bilateral agreement".

Satisfactory Balance of Concessions

1. *Romania*

The U.S.-Romanian Trade Agreement was renewed in 1981 for three years, because a satisfactory balance of trade concessions existed between 1978-1981. U.S. trade concessions granted to Romania were continued from 1981-1984 and a satisfactory balance of benefits for the U.S. has been maintained.

A. *MFN*

Nondiscriminatory (MFN) tariff treatment, was granted reciprocally through the Trade Agreement. For nine years Romania has received uninterrupted MFN treatment from the U.S. Since 1975 the U.S. has enjoyed a $1.6 billion surplus in trade. If the U.S. were now to deny MFN tariff treatment, Romania probably would retaliate by discriminating against U.S. products.

B. *GSP*

Romania has benefited from U.S. Generalized System of Preferences (GSP) since January 1976. In 1983, Romania exported $57 million in goods to the U.S. under GSP. These preferences are unilateral and voluntary. They are not mentioned in the Trade Agreement and are not a binding commitment by the U.S. As a form of economic development assistance to eligible developing countries, GSP does not require trade concessions by Romania.

C. *Business Facilitation*

Romania has observed Trade Agreement provisions designed to facilitate U.S. business activity in Romania. Some aspects of the business climate have improved; others continue to be discussed bilaterally, including the issue of Romanian patent protection for chemical compounds which is currently denied to U.S. producers unless they enter into joint ventures with Romanian companies. Currently there are 28 U.S. firms, or their European subsidiaries, with commercial officers or representation in Romania. Romania has supplied a wide variety of economic and commercial information and has passed legislation designed to facilitate commerce with foreign companies. On balance, Romania has sought for three years to increase business with U.S. firms and has been reasonably responsive to U.S. concerns.

D. *Trade Relations*

Since renewal of the Agreement in 1981, bilateral trade has fallen from $1,063 million to $698 million in 1983. The U.S. was in deficit all three years. This reflects the results of Romania's attempts to deal with its debt crisis which, involved a sharp diminishing of the country's imports. While U.S. exports of manufactured goods remained steady, agricultural sales fell substantially. Romania also exported less of its steel and refined petroleum products. Nevertheless, trade turnover with Romania improved from 1982 to 1983, and a satisfactory basis for future expansion exists. U.S. exports to Romania for the first quarter of 1984 are, in fact, at an annual rate 40 percent greater than 1983 exports.

2. *Hungary*

The U.S.-Hungarian Trade Agreement, signed in 1978 was renewed in 1981. Reciprocal trade concessions have provided a satisfactory balance of benefits to the United States.

A. *MFN*

The U.S.-Hungarian Trade Agreement provides for reciprocal extension of nondiscriminatory (MFN) tariff treatment. Despite the preeminent nonmarket characteristics of its economy, Hungary has an effective tariff system, and tariffs do play a significant role in Hungarian import decisions. The reciprocal lowering of tariffs has helped to increase bilateral trade from $205 million in 1983. Non-extension of MFN tariff treatment would probably lead Hungary to impose discriminatory duties on U.S. exports, which in some major product categories would be as high as 50 percent.

B. *Business Facilitation*

Hungarian observance of the Trade Agreement's business facilitation provisions has contributed to trade expansion and to an improved commercial climate between the two countries. To date, 3 U.S. firms have established, or received permission to establish, representation offices in Hungary. There are over 130 cooperation agreements, including joint ventures, between U.S. and Hungarian firms. Under the Trade Agreement, the Hungarian Government and its enterprises have provided information about the access to the Hungarian market and have cooperated to help solve commercial disputes.

C. *Trade Relations*

Since the Trade Agreement was signed in 1978, bilateral trade has increased from $125 million in 1977 to $264 million in 1983, according to U.S. trade statistics. Hungarian Government trade data show that bilateral trade levels for 1982 and 1983 are even higher than indicated by the U.S. figures due to non-reporting of certain U.S. exports to Hungary, particularly agricultural products, chemicals and raw materials transshipped through third countries. Hungarian data indicate that in 1982 bilateral trade reached $342.3 million with a U.S. surplus of $48.7 million, and in 1983 total trade was $414 million, with a U.S. surplus of $35.3 million. As part of the IMF-imposed austerity program, Hungary imposed import restrictions in the second half of 1982. Recent improvements in the overall economic situation, and particularly the increase in Hungarian foreign exchange reserves, have lead to a gradual withdrawal of the restrictions. In addition, a twenty percent surcharge on spare part imports was abolished on April 1. The Hungarian Government's efforts in this area, coupled with continued improvement in the Hungarian economy, should provide an impetus for an increase in U.S. exports to Hungary.

Reciprocity in the Multilateral Trade Negotiations (MTN)

1. *Romania*

The United States negotiated satisfactory agreements with both Romania and Hungary within the context of the Tokyo Round of Multilateral Trade Negotiations (MTN) concluded in July 1979. Negotiations between the United States and Romania within the context of the MTN resulted in Romanian agreement to undertake certain measures designed to facilitate U.S. exports to Romania. In return, the United States agreed to make certain tariff concessions of interest to Romania. These tariff concessions covered nearly $9 million in items principally supplied to the United States by Romania in 1976 (the base year for trade coverage comparisons used in the MTN). Romania, as a nation entitled to MFN status, also benefits from tariff concessions agreed to by the United States in negotiations with other countries in the MTN.

Romania was entitled to "special and differential treatment" in the MTN because of its status as a developing country—a status recognized in the Trade Agreement. As such, Romania was not required to provide full reciprocity for U.S. concessions. However, in response to U.S. requests, Romania agreed to liberalize several nontariff barriers, including local hiring, availability of business information, business exchange rates, etc., affecting U.S. business operating in that country. While it is difficult to quantify their value in trade terms, these concessions should facilitate the conduct of business transactions with Romanian authorities and result in increased U.S. exports to Romania.

2. *Hungary*

The United States and Hungary agreed to tariff reductions covering $26 million in 1976 two-way trade. Tariff reductions made by Hungary covered nearly $20 million worth of U.S. exports in 1976, with U.S. tariff reductions affecting about $6 million worth of Hungarian exports. These numbers underestimate the trade benefits to be realized by both countries, because neither country granted nondiscriminatory (Most-Favored-Nation) tariff treatment to the other in 1976.

The United States and Hungary also reached agreement on certain nontariff barriers to trade. In response to U.S. requests, Hungary offered several important concessions, including the elimination of its quota on imported consumer goods, as part of its 1981–1985 five-year plan.

These tariff and nontariff concessions should have a positive effect on U.S.-Hungarian trade, by creating opportunities for increased U.S. exports to Hungary, and simplifying some of the problems U.S. businessmen face in concluding business transactions with Hungarian partners.

[FR Doc. 84-15033
Filed 5-31-84; 4:38 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1004, 1049, 1062, 1064, and 1065

[Docket No. AO-160-A63, et al.]

Milk in the Middle Atlantic and Certain Other Marketing Areas; Order Amending Orders

7 CFR Part	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A63
1049	Indiana	AO-319-A32
1062	St. Louis-Ozarks	AO-10-A55
1064	Greater Kansas City	AO-23-A54
1065	Nebraska-Western Iowa	AO-86-A41

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the provisions constituting the Advertising and Promotion Programs in the Middle Atlantic, Indiana, St. Louis-Ozarks, Greater Kansas City, and Nebraska-Western Iowa milk orders. One of the changes provides a fixed advertising and promotion assessment rate of 10 cents per hundredweight in each of the orders. Another change provides that requests for refunds of the advertising and promotion assessment paid by producers will be honored by having the market administrator send such refund monies to the National Board operating under the Dairy Research and Promotion Order (a new national mandatory program to promote sales of dairy products), or to a "qualified" state or regional promotion, research, or nutrition education program designated by the producer. These two changes will remain in effect for the duration of the Dairy Research and Promotion Order.

A third change in each of the orders, except the Middle Atlantic order, alters the manner in which the advertising and promotion assessments are collected under the order. Rather than having the market administrator deduct the monies from the pool, handlers will withhold such assessments from payments to producers and remit those monies to the market administrator for use in the order's advertising and promotion program. Thus, the uniform prices to producers announced in the four orders will not be reduced by the advertising and promotion assessment rate. This is a permanent change in these orders.

These changes are based on evidence presented at a public hearing held on April 18, 1984, in Alexandria, Virginia. The hearing was requested by cooperative associations representing a majority of the producers who supply milk to these markets.

The changes are necessary to reflect current marketing conditions and to assure orderly marketing. The changes will align certain advertising and promotion program provisions of the orders with the provisions of the Dairy Research and Promotion Order, which became fully effective on May 1, 1984. Because of the limited time available to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto were omitted. Cooperative associations representing at least two-thirds of the producers in each market have approved the issuance of the amended orders.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued April 3, 1984; published April 5, 1984 (49 FR 13541).

Emergency Final Decision: Issued May 14, 1984; published May 18, 1984 (49 FR 21060).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic, Indiana, St. Louis-Ozarks, Greater Kansas City, and Nebraska-Western Iowa orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectutate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective upon publication in the Federal Register. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued May 14, 1984 (49 FR 21060). The changes effected by this order will not require extensive preparation or

substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective upon publication in the Federal Register, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending the provisions constituting the Advertising and Promotion Program in each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Parts 1004, 1049, 1062, 1064, and 1065

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. New §§ 1004.105 and 1004.106 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1004.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

§ 1004.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of the Dairy Research and Promotion Order.

2. Section 1004.120 is amended by revising paragraphs (a) and (d) to read as follows:

§ 1004.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

(d) A producer, located in a State which has a State advertising and promotion program in which producers are required to participate unless they are participating in an advertising and promotion program under a Federal order, may (in lieu of a refund request) authorize the market administrator to pay to the State the amount of his required participation not in excess of the rate computed pursuant to § 1004.121(e): *Provided,* That such payments are payments to a qualified program.

3. Section 1004.121 is amended by revising paragraphs (b)(1), (b)(2), and (b)(4) and (e)(2), and adding a new paragraph (b)(5) to read as follows:

§ 1004.121 Duties of the market administrator.

* * * * *

(b) * * *

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (4) and (5) of this section; payments, if any, to producers or states pursuant to paragraphs (b) (2) and (3) of this section; and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) To producers, a refund of the amounts of mandatory checkoff for advertising and promotion programs which are qualified programs and are required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

* * * * *

(4) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(5) of this section shall apply in lieu of this paragraph. After the end of each month, make a refund to each producer who made application for such refund pursuant to § 1004.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b) (2) and (3) of this section.

(5) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research Board, which is defined in the Dairy Research and Promotion Order. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b) (2) or (3) of this section.

* * * * *

(e) * * *

(2) Multiply the price computed pursuant to paragraph (e)(1) of this section by one percent and round to the nearest full cent. This rate shall apply during the following calendar year: *Provided,* That as long as the National Promotion and Research Order is in effect, the rate of withholding shall be 10 cents per hundredweight, except that for milk marketed during the month of May 1984, the rate of withholding shall be 14 cents per hundredweight.

* * * * *

4. In paragraph (c) of § 1004.121, the parenthetical phrase "(§§ 1104.110 through 1104.122)" is revised to read "(§§ 1004.105 through 1004.122)".

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.61 is amended by removing paragraph (f) and revising paragraph (e) to read as follows:

§ 1049.61 Computation of uniform price (including weighted average price).

* * * * *

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

2. In § 1049.73, paragraph (a)(2) is amended by adding at the end of the first sentence the following: ", and less the deduction for advertising and promotion made pursuant to § 1049.107."

3. New §§ 1049.105, 1049.106 and 1049.107 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1049.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

§ 1049.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of the Dairy Research and Promotion Order.

§ 1049.107 Deduction for advertising and promotion program.

On or before the 18th day after the end of each month, each handler described in § 1049.9 (a), (b), or (c) shall remit to the market administrator as a deduction from payments to producers an amount equal to the rate per hundredweight specified in § 1049.121(e) times the volume of milk pooled by each such producer for such month. When making such deductions from payments to producers, the handler shall credit any payments required under authority of State law applicable to such producers for an advertising and promotion program that is a qualified program. Such credit shall not exceed the amount of each producer's deduction computed pursuant to this section.

4. Section 1049.120 is amended by revising paragraph (a) to read as follows:

§ 1049.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

5. In § 1049.121, revise the introductory text of paragraph (b) and paragraph (b)(1); remove and reserve paragraph (b)(2); revise paragraph (b)(3); add a new paragraphs (b)(4); and revise paragraph (c) and (e) to read as follows:

§ 1049.121 Duties of the market administrator.

* * * * *

(b) Each month deposit into an advertising and promotion fund, separately accounted for, an amount equal to the funds received from handlers pursuant to § 1049.107. The amount deposited shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (3) or (4) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) [Reserved]

(3) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(4) of this section shall apply in lieu of this paragraph. After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be that amount which was obtained pursuant to § 1049.107 for each calendar quarter.

(4) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs no later than the last day of the month following the month in which the milk was marketed. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research Board, which is defined in the Dairy Research and Promotion Order.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.105 through 1049.122).

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly uniform prices for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year: *Provided,* That the rate shall be 10 cents per hundredweight as long as the Dairy Research and Promotion Order is in effect.

* * * * *

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

1. Section 1062.61 is amended by removing paragraphs (f) through (1) and revising paragraph (e) to read as follows:

§ 1062.61 Computation of uniform price (including weighted average price).

* * * * *

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

2. In § 1062.73, paragraph (a) is amended by adding at the end of the first sentence the following: ", and less the deduction for advertising and promotion made pursuant to §1062.107."

3. New §§ 1062.105, 1062.106 and 1062.107 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1062.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

§ 1062.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of

the Dairy Research and Promotion Order.

§ 1062.107 Deduction for advertising and promotion program.

On or before the 20th day after the end of each month, each handler described in § 1062.9 (a), (b), or (c) shall remit to the market administrator as a deduction from payments to producers an amount equal to the rate per hundredweight specified in § 1062.121(e) times the volume of milk pooled by each such producer for such month. When making such deductions from payments to producers, the handler shall credit any payments required under authority of State law applicable to such producers for an advertising and promotion program that is a qualified program. Such credit shall not exceed the amount of each producer's deduction computed pursuant to this section.

4. Section 1062.120 is amended by revising paragraph (a) to read as follows:

§ 1062.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

5. In § 1062.121, revise the introductory text of paragraph (b) and paragraph (b)(1); remove and reserve paragraph (b)(2); revise paragraph (b)(3); add a new paragraph (b)(4); and revise paragraphs (c) and (e) to read as follows:

§ 1062.121 Duties of the market administrator.

* * * * *

(b) Each month deposit into an advertising and promotion fund, separately accounted for, an amount equal to the funds received from handlers pursuant to § 1062.107. The amount deposited shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (3) or (4) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) [Reserved]

(3) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(4) of this section shall apply in lieu of this paragraph. After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be that amount which was obtained pursuant to § 1062.107 for each calendar quarter.

(4) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs no later than the last day of the month following the month in which the milk was marketed. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research Board, which is defined in the Dairy Research and Promotion Order.

(c) Promptly after the effective date of this amending order, and thereafter which respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1062.105 through 1062.122).

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year: *Provided,* That the rate shall be 10 cents per hundredweight as long as the Dairy Research and Promotion Order is in effect.

* * * * *

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.61 is amended by removing paragraph (f) and revising paragraph (e) to read as follows:

§ 1064.61 Computation of uniform price (including weighted average price).

* * * * *

(e) Subtract no less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

2. Section 1064.73 is amended by revising paragraph (a) to read as follows:

§ 1064.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price pursuant to § 1064.61, adjusted by the butterfat differential computed pursuant to § 1064.74 and the location adjustment to producers pursuant to § 1064.75, and less the following amounts: (1) The payments made pursuant to paragraph (b) of this section, (2) deductions for marketing services made pursuant to § 1064.86, (3) any deductions authorized by the producer, and (4) deductions for advertising and promotion made pursuant to § 1064.107: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1064.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

* * * * *

3. New §§ 1064.105, 1064.106 and 1064.107 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1064.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

§ 1064.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of the Dairy Research and Promotion Order.

§ 1064.107 Deduction for advertising and promotion program.

On or before the 20th day after the end of the month, each handler described in § 1064.9 (a), (b), or (c) shall remit to the market administrator as a deduction from payments to producers an amount equal to the rate per hundredweight specified in § 1064.121(e)

times the volume of milk pooled by each such producer for such month. When making such deductions from payments to producers, the handler shall credit any payments required under authority of State law applicable to such producers for an advertising and promotion program that is a qualified program. Such credit shall not exceed the amount of each producer's deduction computed pursuant to this section.

4. Section 1064.120 is amended by revising paragraph (a) to read as follows:

§ 1064.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

5. In § 1064.121, revise the introductory text of paragraph (b) and paragraph (b)(1); remove and reserve paragraph (b)(2); revise paragraph (b)(3); add a new paragraph (b)(4); and revise paragraphs (c) and (e) to read as follows:

§ 1064.121 Duties of the market administrator.

* * * * *

(b) Each month deposit into an advertising and promotion fund, separately accounted for, an amount equal to the funds received from handlers pursuant to § 1064.107. The amount deposited shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (3) or (4) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) [Reserved]

(3) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(4) of this section shall apply in lieu of this paragraph. After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1064.120. Such refund shall be that amount which was obtained pursuant to § 1064.107 for each calendar quarter.

(4) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs no later than the last day of the month following the month in which the milk was marketed. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research Board, which is defined in the Dairy Research and Promotion Order.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1064.105 through 1064.122).

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "uniform prices" for the last quarter of the preceding year by 0.75 percent and rounding the result to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year: *Provided,* That the rate shall be 10 cents per hundredweight as long as the Dairy Research and Promotion Order is in effect.

* * * * *

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.61 is amended by removing paragraph (g) and revising paragraph (f) to read as follows:

§ 1065.61 Computation of uniform price (including weighted average price).

* * * * *

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

2. Section 1065.73 is amended by redesignating paragraph (a)(2)(iii) as paragraph (a)(2)(iv), revising paragraph (a)(2)(ii), and adding a new paragraph (a)(2)(iii) to read as follows:

§ 1065.73 Payments to producers and to cooperative associations.

(a) * * *

(2) * * *

(ii) Deductions for marketing services pursuant to § 1065.86;

(iii) Deductions for advertising and promotion made pursuant to § 1065.107; and

* * * * *

3. New §§ 1065.105, 1065.106 and 1065.107 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1065.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98-180, 97 Stat. 1123, as approved November 29, 1983, and any amendments thereto.

§ 1065.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of the Dairy Research and Promotion Order.

§ 1065.107 Deduction for advertising and promotion programs.

On or before the 20th day after the end of the month, each handler described in § 1065.9 (a), (b), or (c) shall remit to the market administrator as a deduction from payments to producers an amount equal to the rate per hundredweight specified in § 1065.121(e) times the volume of milk pooled by each such producer for such month. When making such deductions from payments to producers, the handler shall credit any payments required under authority of State law applicable to such producers for an advertising and promotion program that is a qualified program. Such credit shall not exceed the amount of each producer's deduction computed pursuant to this section.

4. Section 1065.120 is amended by revising paragraph (a) to read as follows:

§ 1065.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

5. In § 1065.121, revise the introductory text of paragraph (b) and

paragraph (b)(1); remove and reserve paragraph (b)(2); revise paragraph (b)(3); add a new paragraph (b)(4); and revise paragraphs (c) and (e) to read as follows:

§ 1065.121 Duties of the market administrator.

* * * * *

(b) Each month deposit into an advertising and promotion fund, separately accounted for, an amount equal to the funds received from handlers pursuant to § 1065.107. The amount deposited shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (3) or (4) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) [Reserved]

(3) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(4) of this section shall apply in lieu of this paragraph. After the end of each calender quarter, make a refund to each producer who has made application for such refund pursuant to § 1065.120. Such refund shall be that amount which was obtained pursuant to § 1065.107 for each calendar quarter.

(4) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs no later than the last day of the month following the month in which the milk was marketed. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research Board, which is defined in the Dairy Research and Promotion Order.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1065.105 through 1065.122).

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "uniform prices" for the last quarter of the preceding year by 0.75 percent and rounding the result to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year: *Provided,* That the rate shall be 10 cents per hundredweight as long as the Dairy Research and Promotion Order is in effect.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: June 4, 1984.

Signed at Washington, D.C. on May 29, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-14892 Filed 6-1-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1036

[Docket No. AO-179-A47]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the provisions constituting the Advertising and Promotion Program in the Eastern Ohio-Western Pennsylvania milk order. One of the changes provides a fixed advertising and promotion assessment rate of 10 cents per hundredweight. Another change provides that requests for refunds of the advertising and promotion assessment paid by producers will be honored by having the market administrator send such refund monies to the National Board operating under the Dairy Research and Promotion Order (a new national mandatory program to promote sales of dairy products), or to a "qualified" state or regional promotion, research, or nutrition education program designated by the producer. These two changes will remain in effect for the duration of the Dairy Research and Promotion Order.

A third change in the order alters the manner in which the advertising and promotion assessments are collected under the order. Rather than having the market administrator deduct the monies from the pool, handlers will withhold such assessments from payments to producers and remit those monies to the market administrator for use in the order's advertising and promotion program. Thus, the uniform price to producers announced in the order will not be reduced by the advertising and promotion assessment rate. This is a permanent change in the order.

These changes are based on evidence presented at a public hearing held on April 18, 1984, in Alexandria, Virginia. The hearing was requested by a cooperative association representing producers who supply milk to the market.

The changes are necessary to reflect current marketing conditions and to assure orderly marketing. The changes will align certain advertising and promotion program provisions of the order with the provisions of the Dairy Research and Promotion Order, which became fully effective on May 1, 1984. Because of the limited time available to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto were omitted. More than two-thirds of the producers who participated in a referendum have approved the issuance of the amended order.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued April 3, 1984; published April 5, 1984 (49 FR 13541).

Emergency Final Decision: Issued May 14, 1984; published May 18, 1984 (49 FR 21060).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Eastern Ohio-Western Pennsylvania order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the

Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the Federal Register. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued May 14, 1984 (49 FR 21060). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the Federal Register, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the provisions constituting the Advertising and Promotion Program in the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1036

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, as hereby further amended, as follows:

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. Section 1036.61 is amended by removing paragraph (f) and revising paragraph (e) to read as follows:

§ 1036.61 Computation of uniform price (including weighted average price).

* * * * *

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

2. Section 1036.73 is amended by redesignating paragraph (a)(2)(iv) to be (a)(2)(v), revising paragraph (a)(2)(iii), and adding a new (a)(2)(iv) to read as follows:

§ 1036.73 Payments to producers and to cooperative associations.

* * * * *

(a) * * *

(2) * * *

(iii) Any marketing service deduction pursuant to § 1036.86;

(iv) Deductions for advertising and promotion made pursuant to § 1036.107; and

* * * * *

3. New §§ 1036.105, 1036.106 and 1036.107 are added under the centered heading of Advertising and Promotion Program to read as follows:

§ 1036.105 Dairy research and promotion order.

"Dairy Research and Promotion Order" means the order (7 CFR Part 1150) established by the Secretary pursuant to Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

§ 1036.106 Qualified program.

"Qualified program" means a State or regional dairy product promotion, research or nutrition education program certified by the Secretary as a qualified program pursuant to Section 1150.153 of the Dairy Research and Promotion Order.

§ 1036.107 Deduction for advertising and promotion programs.

On or before the 18th day after the end of the month, each handler described in § 1036.9 (a), (b), or (c) shall remit to the market administrator as a deduction from payments to producers an amount equal to the rate per hundredweight specified in § 1036.121(e) times the volume of milk pooled by each such producer for such month. When making such deductions from payments to producers, the handler shall credit any payments required under authority of State law applicable to such producers for an advertising and promotion program that is a qualified program. Such credit shall not exceed the amount of each producer's deduction computed pursuant to this section.

4. Section 1036.120 is amended by revising paragraph (a) to read as follows:

§ 1036.120 Procedure for requesting refunds.

* * * * *

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer. As long as the Dairy Research and Promotion Order is in effect, any producer who files a request for refund in accordance with this section may designate a qualified program to receive such refund.

* * * * *

5. In § 1036.121, revise the introductory text of paragraph (b) and paragraph (b)(1); remove and reserve paragraph (b)(2); revise paragraph (b)(3) and add a new paragraph (b)(4) to read as follows:

§ 1036.121 Duties of the market administrator.

* * * * *

(b) Each month deposit into an advertising and promotion fund, separately accounted for, an amount equal to the funds received from handlers pursuant to § 1036.107. The amount deposited shall be disbursed as follows:

(1) To the Agency each month, all

such funds less any necessary amount held in reserve to cover refunds in paragraphs (b) (3) or (4) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) (Reserved)

(3) As long as the Dairy Research and Promotion Order is in effect, paragraph (b)(4) of this section shall apply in lieu of this paragraph. After the end of each calendar month make a refund to each producer who has made application for such refund pursuant to § 1036.120. Such refund shall be the amount paid to the market administrator pursuant to § 1036.107 for such producer.

(4) As long as the Dairy Research and Promotion Order is in effect, remit to any qualified programs any refunds designated by producers to be paid to such programs no later than the last day of the month following the month in which the milk was marketed. If a refund request does not designate a qualified program to receive such money, the refund shall be remitted to the National Dairy Promotion and Research which is defined in the Dairy Research and Promotion Order.

* * * * *

6. In paragraph (c) of § 1036.121, the number "1036.110" is revised to read "1036.105".

7. In § 1036.121, paragraph (e) is revised to read as follows:

§ 1036.121 Duties of the market administrator.

* * * * *

(e) As soon as possible after April of each year, compute the rate of withholding by multiplying the simple average of the uniform prices for the 12-month period ending April 30 by 0.0075 and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with July of the current year: *Provided,* That the rate shall be 10 cents per hundredweight as long as the Dairy Research and Promotion Order is in effect.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective Date: June 4, 1984.

Signed at Washington, D.C., on May 30, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-14923 Filed 6-1-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84-040]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Tennessee to the lists of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, has determined that Tennessee has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

DATES: Effective date of the interim rule is June 4, 1984. Written comments must be received on or before August 3, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

Mares and stallions over 731 days of age must be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards necessary to ensure that such mares and stallions being imported into the United State are free of the contagion of CEM. These minimum standards, which concern treatment, testing and handling of the horses, are set forth in § 92.4(a)(6) of the regulations for stallions and in § 92.4(a)(9) of the regulations for mares.

It has been determined that Tennessee meets the requirements of both §§ 92.4(a)(6) and 92.4(a)(9). Therefore, Tennessee is added to the lists of those States approved to receive certain mares and stallions over 731 days of age imported into the United States from countries affected with CEM.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that fewer than 15 mares and stallions from countries affected with CEM will be imported into the State of Tennessee annually. This compares with 320 such animals imported into the entire United States during Fiscal Year 1983 and with approximately 40,000 horses of all classes imported into the United States during that same period.

Under the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of APHIS for Veterinary Services, has determined that an

emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. These amendments relieve unnecessary restrictions presently imposed on mares and stallions over 731 days of age from countries affected with CEM and bound for Tennessee, and should be made effective immediately in order to allow affected persons to move these horses into Tennessee. Otherwise, these horses would be allowed to be imported only to other States which have been approved to receive horses from countries affected with CEM. The nearest States to Tennessee approved to receive mares and stallions from countries affected with CEM are Kentucky and Virginia. This action should result in a decrease of costs for importing such horses.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this interim rule are impracticable, unnecessary and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication in the Federal Register. Comments have been solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the Federal Register.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

In § 92.4, paragraphs (a)(5)(ii) and (a)(8)(ii), are revised to read:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds and for animal specimens for diagnostic purposes;[5] and reservation fees for space at quarantine facilities maintained by Veterinary Services.

* * * * *

(a) * * *

(5) * * *

(ii) The following States have been approved to receive stallions over 731 days of age pursuant to § 92.2(i)(2)(iv):

The State of California.
The State of Colorado.
The State of Kentucky.
The State of Louisiana.
The State of Maryland.
The State of New York.
The State of North Carolina.
The State of Ohio.
The State of South Carolina.
The State of Tennessee.
The State of Virginia.

* * * * *

(8) * * *

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of California.
The State of Colorado.
The State of Kentucky.
The State of Louisiana.
The State of New York.
The State of South Carolina.
The State of Tennessee.
The State of Virginia.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 29th day of May 1984.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-14631 Filed 6-1-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation of Administration

14 CFR Part 71

[Airspace Docket No. 84-AWA-4]

Alteration of VOR Federal Airways, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is realigning several VOR Federal Airways in the vicinity of Huguenot, NY, to facilitate handling of low altitude arrivals to airports in the New York metropolitan area and to eliminate a conflict point at Ellan intersection.

EFFECTIVE DATE: July 5, 1984.

FOR FURTHER INFORMATION CONTACT: Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On April 5, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-93, V-106, V-162, V-205 and V-489 and to amend V-167 by deleting that portion of V-167 that starts from Hancock, NY, and goes to Kingston, NY (49 FR 13545). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-93, V-106, V-162, V-205 and V-489 and amends V-167 by deleting that portion of V-167 that starts from Hancock, NY, and goes to Kingston, NY.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0301 G.m.t., July 5, 1984, as follows:

V-93—[Amended]

By deleting the words "Pawling, NY;" and substituting the words "INT Lake Henry 056° and Pawling, NY, 274° radials; Pawling;"

V-106—[Amended]

By deleting the words "Pawling, NY;" and substituting the words "INT Lake Henry 056° and Pawlings, NY, 274° radials; Pawling;"

V-162—[Amended]

By deleting the words "INT Huguenot 032° and Pawling, NY, 259° radials to Pawling." and substituting the words "INT Huguenot 032° and Pawlings, NY, 274° radials; Pawling;"

V-167—[Amended]

By deleting the words "From Hancock, NY; INT Hancock 120° and Kingston, NY, 274° radials; Kingston;" and substituting the words "From Kingston, NY;"

V-205—[Amended]

By deleting the words "INT Sparta 023° and Pawling, NY, 238° radials; Pawlings;" and substituting the words "INT Sparta 023° and

Kingston, NY, 256° radials; Kingston; Pawling, NY;"

V-489—[Amended]

By deleting the words "INT Sparta 023° and Kingston 238° radials; Kingston, NY;" and substituting the words "INT Sparta 023° and Kingston, NY, 256° radials; Kingston;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 22, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-14811 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 84-128]

Customs Regulations Amendment Relating to Processing of Unaccompanied Baggage

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to allow unaccompanied checked baggage to be treated as other than air cargo for Customs documentation purposes. Currently, that baggage is considered to be cargo, and subject to more paperwork than is necessary to expedite its delivery to the traveler.

Baggage which is unaccompanied but not checked will continue to be treated, controlled, and documented as air cargo.

Customs is enacting the amendment to reduce the paperwork requirements applicable to unaccompanied checked baggage.

EFFECTIVE DATE: July 5, 1984.

FOR FURTHER INFORMATION CONTACT: John B. McGowan, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5607).

SUPPLEMENTARY INFORMATION:

Background

A fundamental part of Customs traditional mission is to prevent fraud and smuggling. One means to accomplish this is to control carriers, persons, and articles entering and departing the United States.

For reasons of Customs anti-smuggling enforcement effort and quantity control purposes, all unaccompanied baggage has been treated as cargo. Accordingly, § 6.7(b)(3)(vii), Customs Regulations (19 CFR 6.7(b)(3)(vii)), requires that all unaccompanied baggage, whether checked or unchecked, arriving in the United States on a foreign flight, be manifested on Customs Form 7509 as air cargo. However, informal surveys conducted by Customs at various United States airports have shown that for the sake of expediency, diverse local procedures for handling unaccompanied baggage have been developed in many field offices to accommodate their particular workload, enforcement, and control situations. Those local procedures have been devised because of a general recognition that baggage traveling under a regular destination tag, i.e., "checked," poses less risk of a loss to the revenue because of undervaluation or failure to declare articles and is less likely to be used to introduce articles illegally into the commerce of the United States.

However, because unaccompanied checked baggage is treated as air cargo, an entry for immediate transportation without appraisement (in bond) on Customs Form 7520, must be completed by Customs for all such baggage traveling from a port of entry to a port of destination—even though the baggage may have been examined by Customs at the port of entry and will be claimed by the passenger at the port of destination. In addition, all overages of unaccompanied baggage manifested as air cargo now require a "post entry" and completion of Customs Form 5931, Discrepancy Report and Declaration, if the baggage is not claimed immediately by the deplaning passenger (see §§ 6.7(h), 18.13, Customs Regulations (19 CFR 6.7(h), 18.13)).

The amendment will distinguish between unaccompanied checked baggage and that which is not checked, and will eliminate the application to unaccompanied checked baggage of the procedures normally applied to air cargo entering the United States.

Accordingly, the proposal, which was published in the Federal Register on September 9, 1983 (48 FR 40737), will streamline procedures for processing unaccompanied, checked baggage arriving via air carrier and timely presented to Customs for examination. Only unaccompanied unchecked baggage and unaccompanied checked baggage not timely presented or, if timely presented but containing dutiable, restricted, or prohibited merchandise, will be required to be manifested on Customs Form 7509. Such baggage will be subject to other documentation, allowing other unaccompanied but checked baggage to clear the airport with minimal delay to the air carrier and the traveler. This action, however, will not result in a relaxation of Customs enforcement responsibilities, because unaccompanied checked baggage still will receive an appropriate inspection before release from Customs custody. Once released from Customs custody, delivery of the baggage to the traveler will remain the responsibility of the carrier. Customs believes that the net result of the change will be less required paperwork for air carriers and Customs.

Based on the foregoing, Customs is amending § 6.7(b)(3)(vii), Customs Regulations, to eliminate the requirement of having air carriers show on an Air Cargo Manifest, Customs Form 7509, baggage which has been checked with the air carrier but is arriving in the United States from any foreign country unaccompanied. Baggage which has not been checked with the air carrier and which is arriving unaccompanied will still have to be manifested on Customs Form 7509 as other air express or freight.

Analysis of Comments

One comment was received in response to the notice of September 9, 1983. The commenter, while strongly endorsing the proposal, suggested that the words "post entered or otherwise" be inserted in the third sentence of proposed § 6.7(b)(3)(vii) to read as follows:

Unaccompanied checked baggage not presented timely to Customs or presented timely and found to be dutiable, restricted, or prohibited will be *post entered or otherwise*

shown on the cargo manifest in columns under the following headings:

The insertion of these words was suggested to preclude Customs penalty action based upon an incomplete original inward manifest since an airline is not normally in a position to know whether or not unaccompanied baggage is dutiable, restricted, or prohibited, until after presentation to Customs.

After further review of the matter, Customs agrees with the commenter's observation that an airline is not normally in a position to know whether or not unaccompanied baggage is dutiable, restricted, or prohibited, until after presentation to Customs. However, Customs believes that insertion of the words "post entered or otherwise" could be confusing and would not serve the desired purpose. Instead, Customs has determined that a more efficient way to eliminate any question of what a carrier would or would not know concerning the dutiability, restriction, or prohibition, of unaccompanied baggage is by inserting the words "by Customs" in the third sentence of proposed § 6.7(b)(3)(vii) to read as follows:

Unaccompanied checked baggage not presented timely to Customs or presented timely and found *by Customs* to be dutiable, restricted, or prohibited will be shown on the cargo manifest in columns under the following headings:

Accordingly, other than for the change discussed above, Customs has determined to adopt the proposal as described in that notice.

Executive Order 12291

The amendment does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 6

Air carriers, Baggage, Customs duties and inspection, Freight, Imports.

Amendments to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below.

Dated: May 14, 1984.

William von Raab,

Commissioner of Customs.

Approved.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

Section 6.7 is amended by revising paragraph (b)(3)(vii) to read as follows:

PART 6—AIR COMMERCE REGULATIONS

§ 6.7 Documents for entry.

* * * * *

(b) * * *

(3) * * *

(vii) Unaccompanied baggage arriving in the United States under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found by Customs to be dutiable, restricted, or prohibited will be shown on the cargo manifest in columns under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing columns two blank columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," will be provided on the cargo manifest for the use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight will be manifested as other air express or freight.

(R.S. 251, as amended, sec. 624, 644, 46 Stat. 759, 761, as amended, secs. 304, 1103, 72 Stat. 787, 799, as amended (19 U.S.C. 66, 1624, 1644; 49 U.S.C. 1474, 1509)

[FR Doc. 84-14711 Filed 6-1-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 78N-0366]

Provisional Listing of FD&C Red No. 3 and of FD&C Yellow No. 5 in Cosmetics and Externally Applied Drugs and of Their Lakes in Food and Ingested Drugs; Provisional Listing of FD&C Yellow No. 6 for Use in Food, Drugs, and Cosmetics; Provisional Listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 in Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of these color additives for use in coloring food and ingested drugs; of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be August 3, 1984. This postponement will provide additional time for the agency to determine the applicability of the statutory standard for the listing of color additives to the results of the scientific investigations of FD&C Red No. 3, FD&C Yellow No. 5, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33.

DATES: Effective June 4, 1984, the new closing date for FD&C Red No. 3 and its lakes, FD&C Yellow No. 5 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 will be August 3, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of June 4, 1984, for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs and for the provisional listing of the use of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the Federal Register of April 4, 1984 (49 FR 13344). Additionally,

the agency established the current closing date of June 4, 1984, for the provisional listing of D&C Yellow No. 6 in foods, drugs, and cosmetics and of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics in that same Federal Register document. The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 45237 for FD&C Red No. 3, 48 FR 45760 for FD&C Yellow No. 5, 49 FR 13344 for FD&C Yellow No. 6, 48 FR 42807 for D&C Red No. 8 and D&C Red No. 9, and 48 FR 44773 for D&C Red No. 33.

FDA extended the closing dates for the provisional listing of each of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 to permit the agency to consider the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that these closing dates would provide time for the agency to prepare and to publish appropriate regulations in the Federal Register regarding the agency's final decision on the petitions for the permanent listing of the aforementioned uses of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5.

FDA's review and evaluation of the data relevant to the provisionally listed uses of FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 have required more time than anticipated, however. The agency finds that it still needs additional time to determine the applicability of the statutory standard for listing color additives to D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6 as well as to FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes. This postponement will provide additional time for the agency to prepare and to publish the appropriate Federal Register documents setting forth its decision on the petitions for the permanent listing of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring food and ingested drugs; for the permanent listing of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and for the permanent listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for the adequate evaluation of the data and for the preparation of the Federal Register documents will not pose a hazard to the public health.

Because of the short time until the June 4, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes until August 3, 1984. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on June 4, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Food, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissoner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," and "FD&C Red No. 3" in paragraph (a) to read "August 3, 1984" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (b) to read "August 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," "FD&C Red No. 3," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (d) to read "August 3, 1984" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "August 3, 1984."

Effective date. This final rule is effective June 4, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: May 18, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-14796 Filed 5-31-84; 9:09 am]

BILLING CODE 4160-01-M

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21 CFR PART 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be August 3, 1984. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37.

DATES: Effective June 4, 1984, the new closing date for D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 will be August 3, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of June 4, 1984, for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use in externally applied drugs and cosmetics by a final rule published in the Federal Register of April 4, 1984 (49 FR 13343). The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 38814 for D&C Red No. 19 and D&C Red No. 37 and 48 FR 44774 for D&C Orange No. 17.

FDA extended the closing date for the provisional listing of these color additives on these occasions to permit the agency to consider the scientific and legal aspects of the submissions by the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., in support of the safety of the external uses of these color additives. Although D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to evaluate the data involved in resolving these questions than the agency anticipated. FDA finds that it still needs additional time to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37. The regulations set forth below will postpone the June 4, 1984 closing date for the provisionally listed use of these color additives until August 3, 1984. This postponement will also provide additional time for the agency to prepare and to publish Federal Register documents setting forth its final decision on the petitions for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for the adequate evaluation of the data and for the preparation of Federal Register documents that will announce the agency's decision on these color additives will not pose a hazard to the public health.

Because of the short time until the June 4, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postonement as a final rule. This final rule will permit the uninterrupted use of these color additives until August 3, 1984. To prevent any interruption in the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective June 4, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," "D&C Red No. 37" in paragraph (b) to read "August 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (d) to read "August 3, 1984."

Effective date. This final rule shall be effective June 4, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: May 18, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-14795 Filed 6-1-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for The Ohio Farmers Grain and Supply Association providing for manufacturing 10- and 40-gram-per-pound tylosin premixes. The premixes are intended to be used in making finished feeds for swine, cattle, and chickens. In addition, the firm is added to the list of sponsors of approved NADA's.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: The Ohio Farmers Grain and Supply Association, P.O. Box M, Fostoria, OH 44330, is the sponsor of NADA 137–051 submitted on its behalf by Elanco Products Co. This NADA provides for manufacture of premixes containing 10 or 40 grams per pound of tylosin (as tylosin phosphate). The premixes will subsequently be used to make finished feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary. In addition, the sponsor does not appear in the list of sponsors of approved NADA's in 21 CFR 510.600(c). The list is amended to add this sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * *	
The Ohio Farmers Grain and Supply Association, P.O. Box M, Fostoria, OH 44830	026439
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
026439	The Ohio Farmers Grain and Supply Association, P.O. Box M, Fostoria, OH 44830
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(82), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(82) To 026439: 10 and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. June 4, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 25, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-14794 Filed 6-1-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Sterile Benzathine Penicillin G and Procaine Penicillin G Suspension

Correction

In FR Doc. 84-12417 beginning on page 19642 in the issue of Wednesday, May 9, 1984, make the following correction:

On page 19642, third column, in the authority paragraph, third line from the bottom, "(21 CFR 5.38)" should have read "(21 CFR 5.83)".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 96

[DoD Directive 1304.23]

Acquisition and Use of Criminal History Record Information by the Military Services

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This rule incorporates relevant provisions of the Defense Appropriations Act of 1982. This rule provides policy guidance to the Military Services concerning background reviews of applicants for enlistment to determine suitability for entry and for participation in special programs that require a determination of trustworthiness. Military Department Secretaries are directed to develop implementing regulations concerning the use and safeguarding of criminal record information acquired during the recruiting process to assist in the identification of applicants who are unfit for service, who may not be enlisted without a waiver, or who may be enlisting fraudulently.

DATE: This rule was approved and signed by the Deputy Secretary of Defense on February 15, 1984, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Capt. Louise Wilmot, USN, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), Office of the Assistant Secretary of Defense (Manpower, Installations, and Logistics), the Pentagon, Room 2B271, Washington, D.C. 20301, telephone 202-695-5527.

SUPPLEMENTARY INFORMATION:

1. Executive Order 12291. The Department of Defense has determined that this rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

2. Paperwork Reduction Act. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. Regulatory Flexibility Act. The Under Secretary of Defense for Policy certifies that this rule shall be exempt from the requirements under 5 U.S.C. 601-612.

List of Subjects in 32 CFR Part 96

Criminal history record information, Criminal justice system, Military personnel.

Accordingly, 32 CFR is amended by adding a new Part 96, reading as follows:

PART 96—ACQUISITION AND USE OF CRIMINAL HISTORY RECORD INFORMATION BY THE MILITARY SERVICES

Sec.

96.1 Purpose.
96.2 Applicability.
96.3 Definitions.
96.4 Policy.
96.5 Responsibilities.
96.6 Procedures.

Authority: 10 U.S.C. 503, 504, 505, and 520a.

§ 96.1 Purpose.

Under title 10, United States Code, Sections 503, 504, 505 and 520a, this Part establishes policy guidance concerning the acquisition of criminal history record information for use in determining an enlistment applicant's suitability for entry and for participation in special programs that require a determination of trustworthiness (Part 156 of this title), assigns responsibilities, and prescribes procedures.

§ 96.2 Applicability.

This Part applies to the Office of the Secretary of Defense, the Military Departments, and the Defense Investigative Service (DIS). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 96.3 Definitions.

(a) *Criminal History Record Information* (with respect to any juvenile or adult arrest, citation, or conviction). The offense involved; age of the person involved; dates of arrest, citation, or conviction, if any; place of the alleged offense; place of arrest and assigned court; and disposition of the case.

(b) *Criminal Justice System.* State, county, and local government law enforcement agencies; courts and clerks of courts; and other government agencies authorized to collect, maintain, and disseminate criminal history record information.

(c) *Special Programs.* Military Services' programs that, because of their sensitivity or access to classified information, require the DIS to perform the investigations specified in Chapter III of DOD 5200.2-R.

§ 96.4 Policy.

Section 503 of Title 10, United States Code requires the Secretaries of the Military Departments to conduct intensive recruiting campaigns to obtain

enlistments. It is the policy of the Department of Defense that the Military Services review the background of applicants for enlistment and for participation in special programs to identify:

(a) Those whose backgrounds pose serious questions as to fitness for service (10 U.S.C. 504 and 505) or suitability for participation in special programs (Part 156 of this title).

(b) Those who may not be enlisted in the Military Services unless a waiver is granted (section 504 of title 10, United States Code).

(c) Those who may try to enlist fraudulently.

§ 96.5 Responsibilities.

(a) *The Assistant Secretary of Defense (Manpower, Installations, and Logistics)* shall submit the implementing Military Service regulations to the Senate and House Committees on Armed Services, in accordance with section 520a of title 10, United States Code.

(b) *The Secretaries of the Military Departments* shall develop and prepare uniform implementing regulations concerning acquisition, review, and safeguarding of criminal history record information by recruiting elements to conform with section 520a of title 10, United States Code, policies stated herein and shall include in the regulations procedures on obtaining and reviewing criminal history record information for recruitment purposes and for assignment of personnel to special programs.

(c) *The Director, Defense Investigative Service,* shall ensure that the acquisition of all available criminal history record information, or criminal history record information provided to the DIS by other government agencies, is safeguarded in accordance with existing laws or DoD regulatory documents to ensure protection of the privacy of the enlistment applicant on whom the record exists.

§ 96.6 Procedures.

(a) Under section 520a of title 10, United States Code, recruiters are authorized to request and receive criminal history record information from the criminal justice system.

(b) The Military Services shall obtain criminal history record information on enlistment applicants from the criminal justice system and from the DIS and shall review this information to determine whether applicants are acceptable for enlistment and for assignment to special programs. Recruiters shall request such information in each instance by addressing their requests to the criminal justice system not later than 90 days after each application for enlistment is made.

(c) The Military Services shall ensure the confidentiality of criminal history record information obtained for recruiting purposes. Personnel who have access to this information may not disclose it except for the purposes for which obtained (10 U.S.C. 520a).

(d) The DIS shall provide additional background information to the Military Services as needed to determine the suitability of applicants for enlistment and for participation in special programs. This additional background information shall be provided by Entrance National Agency Checks (ENTNACs) and other investigations as directed by DoD 5200.2-R.

Dated: May 30, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-14921 Filed 6-1-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD12 84-04]

Special Local Regulations; Western States Championships

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Western States Championships on the San Joaquin River, Stockton Channel. This event will be held on 30 June and 1 July 1984 in the Stockton Channel of the San Joaquin River, Stockton, CA. The regulations are needed to provide for the safety of life on navigable waters during the event by regulating vessel traffic in designated areas.

EFFECTIVE DATE: These regulations become effective on 30 June 1984 and terminate on 1 July 1984.

FOR FURTHER INFORMATION CONTACT: LT Bob Olsen, Commander (bt), Twelfth Coast Guard District, Government Island, Alameda, California 94501, (415) 437-3309.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations. Following normal rule making procedures would have been impractical due to the lack of sufficient time to have a 30 day comment period and still publish a final rule in advance of the event.

Drafting Information

The drafters of this notice are LT Bob Olsen, Chief Boating Technical Branch, Twelfth Coast Guard District and LT Charles Amen, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The West Coast Outboard Association is sponsoring the Western States Championships on 30 June and 1 July 1984. This event consists of high speed powerboat races over a closed course with 90 hydroplanes, tunnel-hulls, and runabouts 14 to 17 feet in length competing on an oval closed course that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-1204 to read as follows:

§ 100.35-1204 San Joaquin River, Western States Championships.

(a) *Effective Dates.* These regulations are effective from 1000 to 1800 PDT, 30 June and 1 July 1984.

(b) *Regulated Area. Western States Championships Race Course Area:* That Portion of the Stockton Deep Water Channel from Stockton Channel Light 43 (Light List Number 978) East (upstream) to Stockton Channel Light 48 (Light List Number 981) a distance of approximately 1.00 statute mile, will be closed to navigation during the Western State Championships trials, races, and heats, from 1000 to 1800 Daily. The regulated area will be opened every hour on the hour or after each heat for a minimum of ten (10) minutes to allow for the safe transit of non participant vessels through the area.

(c) *Regulations.* (1) All vessels not officially involved with the Western States Championships will remain outside of the regulated area during periods of closure.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) All vessels not officially involved with the Western States Championships shall proceed directly through the regulated area when it is open to navigation in a safe and prudent manner.

(4) All vessels in the vicinity of the regulated area shall comply with the instructions of U.S. Coast Guard or local enforcement patrol personnel.

(33 U.S.C. 1233; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: May 24, 1984.

W. F. Merlin,

Acting Captain, U.S. Coast Guard Commander, Twelfth Coast Guard District.

[FR Doc. 84-14846 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD11 84-12]

Special Local Regulations; Sunshine Marina Boat Drags

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Sunshine Marina Boat Drags on the Colorado River. This series will be held on 2–3 June, 25–26, August, and 20–21 October 1984, at Riviera Marina, Riviera, Arizona. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 2 June 1984 and terminate on 21 October 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590–2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the Federal Register on April 6, 1984. No comments were received.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Chief, Boating Affairs Branch, Eleventh Coast Guard District, Project Officer, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

Sunshine Events Inc. "Sunshine Marina Boat Drags" will be conducted on 2–3 June, 25–26 August, and 20–21 October 1984, on the Colorado River starting from the entrance of Riviera Marina, Riviera, Arizona. Race boats will compete in heats moving 1,200 feet north, 1,000 additional feet will be allowed for slow down and turn around. Then they will idle southerly along the natural flow of the river back to the starting point. This event will have 50 to 80 high speed boats, ranging from 17 to 22 feet in length, that could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding the following section:

§ 100.35-11-84-12 Colorado River,-Sunshine Marina Boat Drags.

(a) *Regulated Area.* That portion of the Colorado River, starting from the entrance of Riviera Marina, Riviera, Arizona to approximately 2,200 feet north.

(b) *Effective Date.* The regulated area will be closed intermittently to all vessel traffic from 8:00 am to 5:00 pm on the following dates:

2–3 June 1984
25–26 August 1984
20–21 October 1984.

(c) *Special Local Regulations.* (1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect at the end of each period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: May 29, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 84-14845 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 11-84-48]

Special Local Regulations; U.S. Olympic Sailing Trials

AGENCY: Coast Guard, DOT.

ACTION: Final rule correction.

SUMMARY: This document corrects and clarifies the regulated area of the final rule issued on April 27, 1984 concerning the U.S. Olympic Sailing Trials.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: The following corrections are made at FR Doc. CGD 11–84–46 appearing on page 18093 in the issue of April 27, 1984.

§ 100.35-11-84-46 Long Beach, CA, U.S. Olympic Sailing Trials.

* * * * *

(b) Regulated Areas: (Reference National Ocean Service Chart No. 18749). The U.S. Olympic Sailing Trials will be held in the areas described in subparagraphs (1) and (2) below. Those portions of the areas described in subparagraphs (1) and (2) below that lie within the territorial sea or within internal waters are regulated areas. Exact sailing venue areas for each race class are difficult to establish, since they will vary with each race day due to weather conditions, Buoys and C.G. regatta patrol boats will mark the exact race course areas on each day. The race courses will not extend beyond the following boundaries:

(1) Area Alpha: That portion of Long Beach Outer Harbor bounded by a point 750 yards due east of the western end of the Long Beach breakwater, continuing to the east end, then due north to the western marker of Oil Island Chaffee, then northwest to Latitude: 33–34 N, Longitude: 118–09 W, then southeast to the southern marker of Oil Island Freeman and back to the point 750 yards due east of the western end of the Long Beach breakwater.

* * * * *

(d) * * *

(2) No vessel may block, loiter in, or impede the through transit of participants, event committee boats and/or law enforcement vessels in any charted approach, channel entrance, channel, harbor, or basin, located in the regulated areas.

(3) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the regulated area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

* * * * *

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: May 17, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84-14849 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-84-01]

Special Local Regulations; Eastern Divisionals

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Eastern Divisionals. This event will be held on the Niagara River on June 22, 23 and 24, 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 22 June 1984 and terminate on 24 June 1984.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information: The drafters of this regulation are MSTC Cary H. Lindsay, project officer Office of Search and Rescue and LCDR A. R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations: The Eastern Divisionals will be conducted on the Niagara River, Tonawanda Channel, on June 22, 23 and 24, 1984. This event will have an estimated 90 hydroplanes and runabouts which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station, Buffalo, NY).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35-0901 to read as follows:

§ 100.35-0901 Niagara River.

(a) *Regulated Area:* That portion of the east branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northeast of the South Grand Island Bridge, to an east-west line through Tonawanda Channel Buoy 35 (LLP 29).

(b) *Special Local Regulations:*

(1) The above area will be restricted to vessel navigation or anchorage from 1000 (local time) until 2000 on June 22, 23 and 24, 1984.

(2) The patrol of a portion of Niagara River will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels in the area before, during, and after the events for such time as he finds it necessary for the safe and orderly conduct of the events.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: May 29, 1984.

Henry H. Bell,

Rear Admiral, Commander, 9th Coast Guard District, U.S. Coast Guard.

[FR Doc. 84-14753 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Region II Docket No. 29; AD-FRL 2593-5]

Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for New York State

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Environmental Protection Agency's approval of a request from New York State to revise the air quality designation of the Borough of Manhattan, and portions of the Boroughs of the Bronx, Brooklyn, and Queens in New York City from "cannot be classified" to "better than national standards" with regard to the particulate matter primary national ambient air quality standards. Such designations are required by Section 107(d) of the Clean Air Act and may be revised at the request of a state. This action will mean that air quality in all of New York City will be designated as being "better than" the particulate matter primary standards.

EFFECTIVE DATE: June 4, 1984.

ADDRESSES: Copies of the proposal submitted by New York State are available for public inspection during normal hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278; and

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

On August 4, 1983, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to revise the air quality designation of the Boroughs of Manhattan, Bronx, Brooklyn and Queens in New York City from "cannot be classified" to "better than national standards" with regard to attainment of the particulate matter primary national ambient air quality standards. Additional information in support of its request was submitted by NYSDEC on September 14, 1983.

In the December 27, 1983 issue of the Federal Register (48 FR 56980) EPA advised the public that, based on its review of the technical material submitted by the State, it was proposing to approve the requested redesignation. The reader is referred to the December 27, 1983 notice for a detailed description of the State's submittal and EPA's criteria for review. No comments were received by EPA during its comment period, which ended on January 26, 1984.

EPA is today approving the redesignation request submitted by New York State. The request has been found to meet the requirements of Sections 107 and 301 of the Clean Air Act and applicable EPA guidelines.

In addition, this notice clarifies a footnote to the table for the particulate matter air quality designation for western Staten Island. On March 3, 1981 at 46 FR 14882 this area was designated by EPA and not the State, as "cannot be classified" with regard to the particulate matter secondary standard. This notice modifies the footnote in 40 CFR 81.333 to clarify this fact.

Today's action is being made effective immediately because a redesignation to attainment imposes no new or additional regulatory requirements and delay would serve no useful purpose. Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under section 307(b)(2) of the Clean Air Act, this action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National Parks, Wilderness areas.

(Secs. 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7801))

Dated: May 29, 1984.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40 Chapter I, Subchapter C; Part 81, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.333 [Amended]

Section 81.333 is amended by revising the particulate matter attainment status designation table as follows:

1. In the table labeled "New York—TSP" revise the entry for the New Jersey-New York-Connecticut Interstate AQCR to read as follows:

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
New York—TSP				
• • • •	•	•	•	•
New York-New Jersey—Connecticut Interstate AQCR:				
The Borough of Manhattan		X		
Portions of the Bronx, Brooklyn, and Queens (south of the Cross Bronx Expressway, west of the Hutchinson River Parkway and Bronx-Whitestone Bridge, west of the Whitestone Expressway, west of the Van Wyck Expressway, north of the Southern Parkway, north of Conduit Blvd., north of Linden Blvd., north of Caton Ave., north of the Ft. Hamilton Parkway, and north of 39th Street).		X		
• • • •	•	•	•	•

2. Also in the table labeled "New York—TSP", replace the footnote at the end of the table with the following:

[1] Area "cannot be classified" for the secondary standard. EPA designation replaces State designation.

[FR Doc. 84-14775 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-3-FRL-2599-1; Docket No.: 107 VA-5]

Approval of Redesignation of Attainment Status for the Commonwealth of Virginia With Respect to Total Suspended Particulates

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of the air quality designation changes for 24 localities in Virginia from "cannot be classified" to "better than national standards" for the primary and secondary National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP). These revisions are based on eight consecutive calendar quarters of air quality data submitted by Virginia demonstrating attainment.

EFFECTIVE DATE: This action is effective August 3, 1984 unless notice is received by July 5, 1984 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. James Sydnor at the EPA, Region III address shown below. Copies of the Commonwealth's request for redesignation are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Gaughan (3AM13);

and

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: Mr. John Daniel, Jr.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597-8392 or Jacqueline Pine (215) 597-1195 at the Region III address stated above.

SUPPLEMENTARY INFORMATION: On December 16, 1983, the Commonwealth of Virginia submitted a request to have 24 municipalities and counties redesignated as attainment areas for TSP under section 107 of the Clean Air Act. This redesignation would change the TSP classification from "cannot be classified" to "better than national standards" under 40 CFR 81.347 for the following areas listed below. The rest of the AQCR's air quality designation for TSP remains unchanged.

Eastern Tennessee, Southwest Virginia Interstate AQCR (Virginia Portion)

Buchanan County
Tazewell County
Washington County
City of Galax
City of Norton

Valley of Virginia Intrastate AQCR

Frederick County
Pulaski County
Roanoke County
Warren County
City of Waynesboro

Central Virginia Intrastate AQCR

Henry County
Pittsylvania County
Prince Edward County
City of Bedford
City of Lynchburg

Northeastern Virginia Intrastate AQCR

None.

State Capital Intrastate AQCR

Sussex County
City of Hopewell
City of Richmond

Hampton Roads Intrastate AQCR

City of Chesapeake

National Capital Interstate AQCR (Virginia Portion)

Arlington County
Fairfax County
Prince William County
City of Alexandria
City of Fairfax

The air quality data from October 1981 through September 1983 submitted by the State indicates that these areas show no violations of National Ambient Air Quality Standards. EPA has examined the air quality data collected from the sites used to demonstrate attainment and found that the data were collected in accordance with all EPA requirements and is acceptable. Accordingly, EPA is approving the Commonwealth's request for redesignation to attainment.

EPA is revising today the Section 107 attainment status designation for the above mentioned 24 counties and municipalities to an attainment status for TSP without prior proposal. The public is advised that this action will be effective 60 days from the date of this Federal Register notice. However if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Conclusion

The Administrator's decision to approve the redesignation was based on a determination that it meets the requirements of Section 107 of the Clean Air Act and 40 CFR Part 81, Designation of Areas for Air Quality Planning Purposes.

As a result of EPA's decision to approve this redesignation, 40 CFR Part 81, § 81.347 is being revised as shown below.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

Authority: Sec. 107 of the Clean Air Act (42 U.S.C. 7407).

Dated: May 29, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—[AMENDED]

Part 81 of Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.347, Virginia, the table entitled "Virginia—TSP" is revised to read as follows:

Designation of Areas, Section 107 Clean Air Act, Particulate Matter

§ 81.347 Virginia.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Eastern Tennessee-Southwest Virginia Interstate AQCR (Virginia Portion):				
Bland County				X
Buchanan County				X
Carroll County				X
Dickenson County				X
Grayson County				X
Lee County				X
Russell County				X
Scott County				X
Smyth County				X
Tazewell County				X
Washington County				X
Wise County				X
Wythe County				X
City of Bristol				X
City of Galax				X
City of Norton				X
Valley of Virginia Intrastate AQCR:				
Alleghany County				X
Augusta County				X
Bath County				X
Botetourt County				X
Clarke County				X
Craig County				X
Floyd County				X
Frederick County				X
Giles County				X

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Highland County				X
Montgomery County				X
Page County				X
Pulaski County				X
Roanoke County				X
Rockbridge County				X
Rockingham County				X
Shenandoah County				X
Warren County				X
City of Buena Vista				X
City of Clifton Forge				X
City of Covington				X
City of Harrisonburg				X
City of Lexington				X
City of Radford				X
City of Roanoke				X
City of Salem				X
City of Staunton				X
City of Waynesboro				X
City of Winchester				X
Central Virginia Intrastate AQCR:				
Amelia County				X
Amherst County				X
Appomattox County				X
Bedford County				X
Brunswick County				X
Buckingham County				X
Campbell County				X
Charlotte County				X
Cumberland County				X
Franklin County				X
Halifax County				X
Henry County				X
Lunenburg County				X
Mecklenburg County				X
Nottoway County				X
Patrick County				X
Pittsylvania County				X
Prince Edward County				X
City of Bedford				X
City of Danville				X
City of Lynchburg				X
City of Martinsville				X
City of South Boston				X
Northeastern Virginia Intrastate AQCR:				
Accomack County				X
Albemarle County				X
Caroline County				X
Culpeper County				X
Essex County				X
Fauquier County				X
Fluvanna County				X
Gloucester County				X
Greene County				X
King and Queen County				X
King George County				X
King William County				X
Lancaster County				X
Louisa County				X
Madison County				X
Mathews County				X
Middlesex County				X
Nelson County				X
Northampton Co.				X
Northumberland Co.				X
Orange County				X
Rappahannock County				X
Richmond County				X
Spotsylvania County				X
Stafford County				X
Westmoreland County				X
City of Charlottesville				X
City of Fredericksburg				X
State Capital Intrastate AQCR:				
Charles City County				X
Chesterfield County				X
Dinwiddie County				X
Goochland County				X
Greensville County				X
Hanover County				X
Henrico County				X
New Kent County				X
Powhatan County				X
Prince George County				X
Surry County				X
Sussex County				X
City of Colonial Heights				X
City of Emporia				X
City of Hopewell				X
City of Petersburg				X
City of Richmond				X

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Hampton Roads Intrastate AQCR:				
Isle of Wight County				X
James City County				X
Southampton County				X
York County				X
City of Chesapeake				X
City of Franklin				X
City of Hampton				X
City of Newport News				X
City of Norfolk				X
City of Poquoson				X
City of Portsmouth				X
City of Suffolk				X
City of Virginia Beach				X
City of Williamsburg				X
National Capital Interstate AQCR (Virginia Portion):				
Arlington County				X
Fairfax County				X
Loudoun County				X
Prince William County				X
City of Alexandria				X
City of Fairfax				X
City of Falls Church				X
City of Manassas				X
City of Manassas Park				X

[FR Doc. 84-14777 Filed 6-1-84; 8:45 am]
BILLING CODE 6560-50-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 612

Freedom of Information Changes

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: The National Science Foundation is issuing final regulations making a number of changes to its Freedom of Information Act regulations. Most of these changes are technical in nature and are intended to update and streamline the regulation, and in some cases to reflect current NSF practices. The primary substantive change is the establishment of specific procedures for handling requests for fee waivers.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Jesse E. Lasken, Assistant to the General Counsel, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550. Phone: 202-357-9446.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1984, the Foundation published proposed regulations. No comments were received. These regulations are identical to the proposed regulations except that in two places in 45 CFR Part 612.7 language has been added to allow the Director to redesignate certain functions to a different office without the need for the Foundation to issue a formal amendment of these regulations.

Executive Order 12291

The Foundation has determined that this is not a major rule under E.O. 12291.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, since these changes principally involve technical changes to existing regulations.

List of Subjects in 45 CFR Part 612

Freedom of information.

Amendments to 45 CFR Part 612

Accordingly, Part 612 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Amend § 612.2(a) by revising the first sentence to read as follows:

§ 612.2 Information policy.

(a) Subject to the policies set forth below, NSF will make the fullest possible disclosure of information to any person who requests information, without unnecessary expense or delay.
* * * * *

2. Amend § 612.2(c) by removing the words "Assistant Director for Administrative Operations (AD/AO)" and inserting, in their place, the words "Assistant Director for Administration (AD/A)".

3. Amend § 612.3(a) by removing the words "Distribution Section" and "Central Processing Section" and inserting, in their places, the words "Mail and Distribution Unit".

4. Amend § 612.3(b) by removing the period at the end of the existing paragraph and inserting, in its place, the following:

§ 612.3 Procedures applicable to the public—requests and appeals.

(b) * * * except in cases when fees have been waived or reduced in accordance with § 612.6(e). If the requester desires a waiver or reduction of fees, the requester may so request either at the time the request for information is submitted or after the Foundation notifies the requester of the amount of fees involved. If a request for a waiver or reduction of fees is made, the requester should include a statement why furnishing the information should be considered as primarily benefiting the general public.
* * * * *

5. Amend § 612.3(c) by removing the words "Public Information Office" and inserting, in their place, the words "Office of Legislative and Public Affairs" and by removing the last sentence.

6. Amend § 612.3(g) by removing the last sentence.

7. Amend § 612.4 by revising it to read as follows:

§ 612.4 Copies of records.

If a requested record is to be disclosed, a copy will be furnished the requester as promptly as possible provided payment of fees has been arranged for or waived pursuant to § 612.6. Records will not be released for copying.

8. Amend § 612.6(a) by removing the words "$3.00" and inserting, in their place, the words "$15.00".

9. Amend § 612.6 by adding a new paragraph (e) to read as follows:

§ 612.6 Fees.

* * * * *

(e) *Waivers or reductions.* The Director, Office of Legislative and Public Affairs, or his or her delegee, is authorized to waive or reduce fees in response to a request made under § 612.3(b). The decision of the Director, OLPA, on any such request shall be final and unappealable. However, when considering an appeal of a denial or partial denial of a request for information under § 612.3, the Deputy Director may waive or reduce fees as part of the decision on the appeal. Any waiver or reduction by either official must be based on a determination that it is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

10. Amend § 612.7(a) by removing the words "Public Information Officer (PIO)" and the abbreviation "PIO" and inserting, in their places, the words "Office of Legislative and Public Affairs, or such other office as may be designated by the Director".

11. Amend § 612.7(b) by revising the heading and first two sentences to read as follows:

§ 612.7 Agency actions on receipt of a properly presented request for record.

* * * * *

(b) *Time for response.* The Foundation will seek to take appropriate agency action on a request within 10 days of its receipt (excepting the date of receipt, Saturdays, Sundays, and legal public holidays). If the record may exist only in a retired file which has been placed in storage or there is otherwise a need to search for and collect the requested records from field facilities or other establishments that are separate from the Foundation, NSF shall immediately notify the requester by letter that the record has been ordered from storage (or is otherwise being sought) and that the time limit for acting on the request is extended by the length of time required to obtain the record. The letter will also give the date on which a determination is expected to be dispatched.

* * * * *

12. Amend § 612.7(b) by removing the words "the office head" and inserting, in their place, the abbreviation "NSF".

13. Amend § 612.7(c) by removing the words "Office of Government and Public Programs" and inserting, in their place, the words "Office of Legislative and Public Affiars, or such other office as may be designated by the Director".

14. Amend § 612.7 by redesignating paragraphs "(c)" and "(d)" as paragraphs "(d)" and "(e)" and add a new paragraph "(c)" to read as follows:

§ 612.7 Agency actions on receipt of a properly presented request for record.

* * * * *

(c) When the requested record is a successful proposal that was submitted to the Foundation, the Foundation will normally contact the organization that submitted the proposal before releasing it in order to ask whether that organization wishes portions of the proposal withheld under any applicable exemptions. (The Foundation does not normally release pending proposals or unsuccessful proposals in any case.)

* * * * *

§§ 612.8 and 612.10 [Removed].

15. By removing §§ 612.8 and 612.10 in their entirety.

§ 612.9 [Redesignated as § 612.8].

16. By redesignating § 612.9 as "§ 612.8".

(5 U.S.C. 552, as amended by Pub. L. 93-502)

Dated: May 25, 1984.

Edward A. Knapp,

Director.

[FR Doc. 84-14854 Filed 6-1-84; 8:45 am]

BILLING CODE 7555-01-M

LEGAL SERVICES CORPORATION

45 CFR Part 1601

By-Laws of the Legal Services Corporation

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: On May 19, 1984 the Board of Directors of the Legal Services Corporation adopted and approved for final publication revisions and amendments to Part 1601 By-Laws of the Legal Services Corporation. The amendments and revisions, as set forth in this final rule, are intended to render the By-Laws a more effective instrument for the control and management of internal corporate operations, to make more clear and precise the language in the provisions of the By-Laws and to provide consistency throughout those provisions. These amendments and revisions became effective upon adoption by the Board of Directors of the Legal Services Corporation.

EFFECTIVE DATE: May 19, 1984.

FOR FURTHER INFORMATION CONTACT: Larisa Dobriansky, Assistant General Counsel, Office of the General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

List of Subjects in 45 CFR Part 1601

Legal services.

Part 1601 of Title 45 of the Code of Federal Regulations is hereby revised as follows:

PART 1601—BY-LAWS OF THE LEGAL SERVICES CORPORATION

Subpart A—Nature, Powers, and Duties of Corporation; Definitions

Subpart B—Offices and Agents

Subpart C—Board of Directors

Subpart D—Meetings of Directors

Subpart E—Committees

Subpart F—Officers

Authority: Sec. 1008(e), 88 Stat. 387 (42 U.S.C. 2996g(e)).

Subpart A—Nature, Powers, and Duties of Corporation; Definitions

§ 1601.1 Nature of the corporation.

Legal Services Corporation is the corporation established by section 1003 of the Legal Services Corporation Act, 42 U.S.C. 2996b. The Act establishes the Corporation in the District of Columbia as a private, nonmembership, nonprofit corporation for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Except as otherwise specifically provided in the Act, the Corporation shall not be considered a department, agency, or instrumentality of the United States Government.

§ 1601.2 Powers and duties.

The powers and duties of the Corporation are as set forth in the Act. The powers of the Corporation include, to the extent consistent with the Act, the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, D.C. Code Title 29, Chapter 10, other than the power to cease corporate activities.

§ 1601.3 Definitions.

As used in these By-Laws, except where the context otherwise requires—

(a) "Act" means the Legal Services Corporation Act, 42 U.S.C. 2996–2996(1), Pub. L. 93–355, approved July 25, 1974, 88 Stat. 378, as amended by Pub. L. 95–222, approved December 28, 1977, 91 Stat. 1619;

(b) "Board" means the Board of Directors of the Corporation;

(c) "Corporation" means the Legal Services Corporation established by section 1003 of the Act, 42 U.S.C. 2996(b);

(d) "Director" means a voting member of the Board of Directors appointed by the President of the United States;

(e) The pronouns "he," "him," and "his" mean, respectively, "he or she," "him or her," and "his or her";

(f) "Member of the Board" means a Director or the President of the Corporation;

(g) "Member of the immediate family" means, with respect to any individual, a spouse, child, parent, brother, or sister of such person, or a spouse or relative of any of the foregoing who has the same home as such person;

(h) "Person" means an individual, corporation, association, partnership, trust, or other entity;

(i) "Recipient" means any grantee or contractor receiving financial assistance from the Corporation under section 1006(a)(1)(A) of the Act;

(j) "Telegraph" for purposes of these By-Laws refers to any means of record communication for transmitting messages to a distant point including, but not limited to, express mail, bonded carrier with one day service, electronic communication capable of transmitting a written message.

Subpart B—Offices and Agents

§ 1601.4 Principal office.

The Corporation shall maintain its principal office in the District of Columbia.

§ 1601.5 Agent.

The Corporation shall maintain a designated agent in the District of Columbia to accept service of process for the Corporation.

§ 1601.6 Other offices and agents.

The Corporation may also have offices and agents at such other places, either within or without the District of Columbia, as the business of the Corporation may require.

Subpart C—Board of Directors

§ 1601.7 General powers.

The property, affairs, and business of the Corporation shall be managed by and under the direction of the Board, subject to the provisions of the Act.

§ 1601.8 Number, terms of office, and qualifications.

(a) The Board shall consist of eleven Directors. The President of the Corporation shall serve as a non-voting *ex officio* member of the Board. The Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate. No more than six of the Directors shall be of the same political party. A majority of the Directors shall be members of the bar of the highest court of a state. None of the Directors shall be a full-time employee of the United States.

(b) The term of office of each Director shall be three years. Each Director shall continue to serve until his successor is appointed and qualified. The term of each Director shall be computed from the date of termination of the preceding term. Any Director appointed to fill a vacancy occurring prior to the expiration of the term for which such Director's predecessor was appointed shall be appointed for the remainder of such term. No Director shall be reappointed to more than two consecutive terms immediately following such Director's initial term.

(c) As of the date on which these By-Laws, as revised, shall become effective, the terms of the Directors of the Board shall expire on the following dates: The terms of six Directors of the Board shall expire on July 13, 1984; the terms of the other five Directors of the Board shall expire on July 13, 1986.

§ 1601.9 The Chairman and Vice Chairman of the Board.

(a) Annually or at such other time as there may be vacancies in such offices, the Board shall elect a Chairman and Vice Chairman of the Board from among its voting members, each of whom shall serve at the pleasure of the Board, or until his successor has been duly elected in his stead, or until he shall resign or otherwise vacate his office or Board membership.

(b) The Chairman of the Board shall, if present, preside at all meetings of the Board, shall carry out all other functions required of him by the Act and these By-Laws, and shall perform such other duties as from time to time may be assigned to him by the Board.

(c) The Vice Chairman of the Board shall, in the absence of the Chairman, preside at meetings of the Board and shall, for purposes of these By-Laws, be considered the Chairman of any meeting at which he so presides. In addition, the Vice Chairman shall carry out all other functions required of him by these By-Laws and shall perform such other duties as from time to time may be delegated to him by the Chairman or assigned to him by the Board.

§ 1601.10 Qualification.

A person shall be deemed to have qualified as a Director when upon appointment or selection, as the case may be, he has affirmed or executed a statement to discharge his duties faithfully, which statement shall be in such form as provided by the Board.

§ 1601.11 Outside interests of directors.

(a) No member of the Board may participate in any decision, action, or

recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization, other than the Legal Services Corporation, with which such member is then associated or has been associated within a period of two years. For the purposes of this paragraph, (1) a member of the Board shall be deemed "associated" with a firm or organizaton if he (i) is serving or has served within the past two years as a Director, officer, trustee, employee, consultant, attorney, agent or partner thereof, or in any of such other capacities as the Board may from time to time determine, (ii) is negotiating or has any arrangement concerning prospective employment therewith or, (iii) has or has had, within the past two years, any direct or indirect financial or ownership interest therein; and (2) the term "member of the Board" includes a member of the immediate family of a member of the Board. If a member of the Board violates this paragraph in connection with any transaction, he may be liable to the Corporation for damages.

(b) Pursuant to procedures to be established by the Board from time to time, each member of the Board, upon assuming office and at least annually thereafter, shall file with the Secretary a statement identifying any firm or organization with which he is then or has been within the past two years associated (as defined in paragraph (a) of this section) and the nature of the association. In the event the association is a result of a financial or ownership interest, that fact shall be reflected in the statement, but the member need not reveal the degree of financial interest. Such statements shall be available for public inspection.

§ 1601.12 Removal.

(a) A Director may be removed by a vote of seven Directors at a meeting of the Board, or by a vote of two-thirds of the number of Directors where the total number of Directors then in office is less than eleven, for persistent neglect of or inability to discharge duties, for malfeasance in office, or for offenses involving moral turpitude, and for no other cause.

(b) When a Director shall fail to attend three consecutive meetings of the Board, or a majority of the meetings held during a one-year period, the Secretary shall notify him in writing that the agenda for the next meeting of the Board will include the question of whether he should be removed for persistent neglect of or inability to discharge his duties.

(c) Except as provided in paragraph (b) of this secton, the Board shall consider whether a Director shall be removed only when five or more Directors, or at least 40 percent of the Directors where the total number of Directors then in office is less than eleven, have stated in writing that they believe there is reasonable cause for such action, giving specific allegations in support of such belief.

(d) A Director may not be removed unless (1) notice of the basis of removal has been given to such Director at least thirty days before a vote is taken concerning his removal and (2) the Director has been afforded the opportunity to contest his removal by making written submissions to the other members of the Board and by appearing in person, with or without counsel present, at the meeting at which the vote concerning removal is taken.

§ 1601.13 Resignation.

A Director may resign at any time by giving written notice of his resignation to the President of the United States, with a copy being sent to the President of the Corporation and to the Chairman of the Board. A resignation shall take effect at the time received by the President of the United States, unless another time is specified therein. The acceptance of a resignation shall not be necessary to make it effective.

§ 1604.14 Compensation.

Directors shall be entitled to receive compensation at appropriate rates prescribed by the Board not in excess of the per diem equivalent of the rate of Level V of the Executive Schedule, specified from time to time in section 5316 of Title 5 U.S.C., for their services on the Board or on any committee thereof, and reimbursement for travel, subsistence, and other expenses necessarily incurred in connection therewith. A Director shall not serve the Corporation in any other capacity or receive compensation for such services, except as authorized by the Board. In no event shall a Director receive compensation in more than one capacity.

Subpart D—Meetings of Directors

§ 1601.15 Meetings.

(a) Meetings of the Board shall be held at least four times a year. An annual meeting shall be held on the last Friday of January of each year at such hour and place as shall be determined by a majority of the Directors. All other meetings shall be held at such intervals and at such locations as shall be determined by a majority of Directors. Notice of the place and time of a meeting shall be mailed to each Director at least seven (7) days before the date of the meeting or shall be telegraphed, charges prepaid, at least five (5) days before the date of the meeting, unless a majority of the Directors determines that Corporation business requires a meeting on fewer than the specified days notice. In that event, notice shall be mailed or telegraphed at the earliest practicable time.

(b) In the event a majority of the Directors of the Board agree to postpone a meeting, notice of such postponement shall be mailed to each director at least five (5) days before the scheduled date for such meeting or shall be telegraphed or delivered at least three days before such scheduled date.

§ 1601.16 Special meetings.

Directors may participate in a special meeting of the Board by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another and by which interested members of the public are able to hear and identify all persons participating in the meeting. Special meetings of the Board may be called by the Chairman of the Board or may be called upon receipt by him of a written request from at least 40 percent of the Directors then in office or from the President of the Corporation and at least 30 percent of the Directors then in office. Notice of any such meeting shall be mailed to each Director at least seven days before the date on which the meeting is to be held. Notice may also be sent to each Director by telegraph, charges prepaid, or delivered to him but, in either case, not later than the fifth day before the date on which the meeting is to be held. A majority of the Directors may determine that Corporation business requires a meeting on fewer than the specified days notice. In that event, notice shall be given at the earliest practicable time. Every such notice shall specify the place, day, and hour of the meeting and the general nature of the business to be transacted.

§ 1601.17 Notice and waiver of notice.

(a) Notice of a meeting of the Board when mailed shall be deemed given when deposited with the United States Postal Service, first-class postage paid, addressed to the Director at his address appearing on the books of the Corporation or supplied by him for the purpose of this notice. Notice which is delivered to a Director shall be delivered at such address to a person having apparent authority to accept such delivery. Notice by telegraph shall

be sent, charges prepaid, to such address.

(b) A waiver of notice of a meeting must be in writing and signed by the Director entitled to such notice and submitted by that Director to the Chairman of the Board or the Secretary of the Corporation, whether before or after the time of such meeting. Attendance of a Director at any meeting shall constitute a waiver by him of notice of such meeting, except where he attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

§ 1601.18 Agenda.

For each meeting, the Chairman of the Board or the President of the Corporation shall cause to be prepared a working agenda of matters to be discussed at the meeting, and shall include the agenda in the notice of the meeting required to be sent to all Directors by § 1601.15 and § 1601.16. Any matters appearing on the agenda which the Chairman of the Board or the President believes should be discussed in an executive session in accordance with § 1601.22 shall be so noted.

§ 1601.19 General notice.

(a) Except as otherwise specifically provided in these By-Laws, general notice of any meeting of the Board shall be mailed to each Director at least seven (7) days before the date of the meeting, or shall be telegraphed or delivered not later than five (5) days before the date of the meeting, unless a majority of the Directors determines by a recorded vote that Corporation business requires a meeting on fewer than the specified days notice. In that event, general notice shall be given at the earliest practicable time.

(b) General notice shall include: (1) The time, place, and subject matter of the meeting; (2) whether the meeting or a portion thereof will be closed to public observation; and (3) the name and telephone number of a person designated to respond to requests for information about the meeting. An amended announcement shall be issued of any change in the information provided by a general notice in accordance with the requirements of 5 U.S.C. 552b and Corporation regulations issued thereunder. Notice of any such change shall be given in the manner prescribed by regulation and at the earliest practicable time.

(c) General notice shall be posted at the offices of the Corporation in an area to which the public has access and filed for publication in the Federal Register. Reasonable effort shall be made to send the notice to the governing board of every recipient.

§ 1601.20 Organization of Directors meetings.

At each meeting of the Board, the Chairman of the Board, or in his absence the Vice Chairman, shall preside. The Secretary of the Corporation shall act as secretary at all meetings of the Board. In the absence from any such meeting of the Secretary, the chairman of the meeting shall appoint a person to act as secretary of the meeting.

§ 1601.21 Quorum, manner of acting, and adjournment.

(a) At each meeting of the Board, the presence of a majority of the Directors in office, but in no event less than four (4) Directors, shall constitute a quorum for the transaction of business. Except as otherwise specifically provided by law or these By-Laws, the vote of a majority of the Directors present at the time of a vote, provided that a quorum is present at such time, shall be the act of the Board. If a quorum is present when a meeting is convened at which an action is subsequently voted upon, the action shall be the valid action of the Board, unless a Director suggests the absence of a quorum and there is, in fact, no quorum then present. A Director who is present at a meeting of the Board but who is required to abstain from participation in the vote upon any matter, whether he remains in the meeting or withdraws therefrom during the vote, may be counted for purposes of determining whether or not a quorum is present, and if a quorum is present, the vote of a majority of the then voting Directors shall be the act of the Board.

(b) A majority of the Directors present at a duly convened meeting, whether or not they shall comprise a quorum, may temporarily adjourn the meeting. Whenever a meeting is temporarily adjourned to a date not more than five business days following such adjournment, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such adjournment is taken.

(c) Each Director shall be entitled to one vote. Voting rights of Directors may not be exercised by proxy.

§ 1601.22 Public meetings; executive sessions.

All meetings of the Board shall be open to the public unless a majority of all of the Directors in office determines by a recorded vote to close a meeting or any portion of a meeting to public observation pursuant to the Corporation's regulations implementing 5 U.S.C. 552b. That part of the meeting closed to the public shall be known as an executive session. The Chairman of the meeting shall announce the general subject of the executive session prior thereto.

§ 1601.23 Public participation.

By written request in advance of a meeting, members of the public may seek to be invited by the Chairman to address that meeting. Members of the public may address a meeting of the Board upon invitation of the Chairman of the meeting, under terms and conditions established by him, unless the Board otherwise directs.

§ 1601.24 Emergency proceedings.

Notwithstanding any other provisions in these By-Laws, in the event that the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of a majority of the number of Directors present at the meeting to remove the meeting to a different location and to invite representatives of the public and media to attend the proceedings at the new location. The emergency proceedings at the new location shall be recorded by means of an electronic recording adequate to record fully the emergency proceeding, or a transcript of the emergency meeting shall be made by a certified court reporter. A written statement summarizing the proceedings at the emergency meeting shall be made available to the public following the close of the emergency proceedings. The Corporation will also make available a copy of the entire transcript or electronic recording produced pursuant to this Section to any person upon request at the actual cost of duplication or transcription. The activities of the emergency proceedings shall be reported at the next scheduled meeting of the Board.

§ 1601.25 Minutes.

The minutes of each meeting of the Board, including an executive session, shall record the names of the Directors present, the actions taken and the result of each vote. If there is a division on a vote, the minutes shall record the vote of each Director. Minutes shall reflect discussions held in executive session, including as much information as possible about those discussions without compromising the purpose for which such meeting was closed to the public. A copy of the minutes of each

meeting shall be supplied to each Director in advance of the next meeting and shall be presented for approval by the Board at such meeting. The minutes of each meeting shall be available for inspection by the public in the form approved by the Directors.

§ 1601.26 Action by directors without a meeting.

Any action which may be taken at a meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action to be taken, is signed by all of the Directors and general notice of the proposed action is published in the manner prescribed by § 1601.19 on or before the date when such consents are first solicited. Any such action so taken shall be included on the agenda of the next meeting of the Board for discussion, ratification, or such other action as may be indicated by the circumstances.

Subpart E—Committees

§ 1601.27 Establishment and appointment of committees.

The Board has established the following permanent committees: Audit and Appropriations Committee; Operations and Regulations Committee; and Provision for the Delivery of Legal Services Committee. The Board may by resolution of a majority of the Directors in office establish (and thereafter dissolve) such other executive, standing, or temporary committees as the Board may deem appropriate to perform such functions as it may from time to time designate. The authority of any such committee shall expire at the time specified in such resolution. The Board may appoint Directors to serve on such committees, including one to serve as the chairman, or may delegate to the Chairman of the Board the authority to make such appointments. A person appointed as a member of the committee shall serve only at the pleasure of the Board. Each committee shall consist of two or more Directors. The Chairman of the Board shall be an *ex officio* voting member of each committee.

§ 1601.28 Committee procedures.

(a) Except as otherwise provided in these By-Laws or in the resolution establishing the committee, a majority of the voting members thereof, or one-half of such members if their number is even, shall constitute a quorum; provided, that if the Chairman of the Board is present, he may be counted for quorum purposes. The vote of a majority of the voting members present at the time of a vote (or one-half of such members if their number is even), if a quorum is present at such time, shall be the act of the committee. Meetings of each committee shall be called by the chairman of the committee or any two members of the committee with notice thereof provided to each committee member, including the Chairman of the Board.

(b) Notice of a committee meeting shall be provided to members of the committee in the manner required for notice of special meetings of the Board by § 1601.16 and § 1601.17(a). Notice may be waived in the manner described in § 1601.17(b). The agenda for the meeting shall be prepared in accordance with § 1601.18, and general notice of the meeting shall be given in accordance with § 1601.19.

(c) All meetings of a committee shall be open to the public unless a majority of all of the Directors then in office determine by a recorded vote to close a meeting or any portion of a meeting to public observation pursuant to the Corporation's regulations implementing 5 U.S.C. 552b.

(d) Minutes shall be kept of each committee meeting in the manner described in § 1601.25. The minutes shall be available for inspection by the public.

(e) Any Director and the President of the Corporation shall have access to the records of any committee irrespective of whether he is a member of the committee.

Subpart F—Officers

§ 1601.29 Officers.

The officers of the Corporation shall be a President, a Vice President, a Secretary, a Treasurer, a Comptroller and such other officers as the Board determines to be necessary. The President of the Corporation shall be elected by a majority of the Directors in office. Other officers shall be appointed by the President after consultation with the Board. The officers shall have such authority and perform such duties, consistent with the Act and these By-Laws, as may from time to time be determined by the Board or, with respect to the other officers, by the President of the Corporation consistent with any such determination of the Board. The President of the Corporation shall provide supervision and direction to the other officers in the performance of their duties.

§ 1601.30 Appointment, term of office, and qualifications.

The President of the Corporation shall be elected for a term not to exceed three years. Each officer of the Corporation other than the President shall be appointed for a term not to exceed three years. An officer shall be elected or appointed whenever a vacancy arises. Each officer shall hold his office until his successor shall have been duly elected or appointed in his stead or until he shall resign or shall have been removed in the manner provided in § 1601.31. Any two offices may be held by the same person, except the offices of the President of the Corporation and Secretary.

§ 1601.31 Removal.

The President of the Corporation may be removed by a majority of the Directors in office, and any other officer may be removed by the President after consultation with the Board, but any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

§ 1601.32 Resignation.

Any officer may resign at any time by giving a written notice of his resignation to the Chairman of the Board. An officer other than the President shall also submit written notice of his intention to resign to the President. Such resignation shall take effect at the time received, unless another time is specified therein. The acceptance of such resignation shall not be necessary to make it effective.

§ 1601.33 The President.

(a) The President of the Corporation shall be its Chief Executive Officer and shall have the responsibility and authority, in accordance with the Act, rules and regulations promulgated pursuant to the Act and these By-Laws, subject to the direction of and policies established by the Board, for (1) the day-to-day administration of the affairs of the Corporation; (2) the appointment of such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation and the removal of such employees; (3) the making of grants and the entering into of contracts; and (4) the exercise of such other powers incident to the office of the President of the Corporation and the performance of such other duties as the Board may from time to time prescribe.

(b) The President of the Corporation shall be a member of the bar of the highest court of a state and shall be a nonvoting *ex officio* member of the Board of Directors.

§ 1601.34 The Vice President.

The Vice President shall have such powers and perform such duties as the President may from time to time prescribe, consistent with any such determinations of the Board. In the absence of and upon delegation by the President, the Vice President shall perform the duties of the President, and

when so acting, shall have all the powers of, and shall be subject to all restrictions upon, the President.

§ 1601.35 The Secretary.

The Secretary shall (a) ensure that all notices are duly given in accordance with the Act and these By-Laws; (b) be the custodian of the seal of the Corporation and affix such seal to all documents the execution of which is authorized by the Board or by any officer or employee of the Corporation to whom the power to authorize the affixing of such seal shall have been delegated; (c) keep, or cause to be kept, in books provided for the purpose, minutes of the meetings of the Board; (d) ensure that the books, reports, statements and all other documents and records required by law are properly kept and filed; (e) sign such instruments as require the signature of the Secretary; and (f) in general, perform all the duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him.

§ 1601.36 The Treasurer.

The Treasurer shall (a) have charge and custody of, and be responsible for, all funds and securities of the Corporation and (with the exception of petty cash) deposit all such funds and securities in such banks, trust companies or other depositaries as shall be selected in accordance with the provisions of these By-Laws; (b) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; (c) sign such documents as shall require the signature of the Treasurer; (d) render to the Board at each meeting of all of the Directors in office and at such times as the Board may require a report on the financial condition of the Corporation; and (e) in general, perform all the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned to him. The Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such sureties as the Board shall determine.

§ 1601.37 The Comptroller.

The Comptroller shall keep or cause to be kept full and correct records and accounts of the business, transactions, receipts and disbursements of the Corporation and, at all reasonable times, shall exhibit such records and accounts to any Director upon application at the office of the Corporation where such records are kept, and shall perform all the duties incident to the Office of Comptroller and such other duties as from time to time may be assigned to him.

§ 1601.38 Compensation.

The President shall be compensated at rates determined by the Board, but not to exceed the rate of Level V of the Executive Schedule specified in section 5316 of Title 5, U.S.C. The compensation of each officer other than the President shall be fixed by the President, after consultation with the Board, at a rate not to exceed the rate of Level V of the Executive Schedule referenced above. No officer of the Corporation may receive any salary or other compensation for services from any sources other than the Corporation during his period of employment by the Corporation, except as authorized by the Board.

§ 1601.39 Prohibition against using political test or qualification.

No political test or political qualification shall be used in selecting, appointing, promoting of taking any other personnel action with respect to any officer, agent of employee of the Corporation.

§ 1601.40 Outside interests of officers and employees.

The Board may from time to time adopt rules and regulations governing the conduct of officers or employees with respect to matters in which they have any interest adverse to the interests of the Corporation. Such rules and regulations may forbid an officer or employee from participating in corporate action with respect to any contract, grant, transaction or other matter in which, to the knowledge of such officer or employee, he or any member of his immediate family has any interest, financial or otherwise, unless (a) such officer or employee makes full disclosure of the circumstances to the Board or its delegate and the Board or its delegate determines that the interest is not so substantial as to affect the integrity of the services of such officer or employee, or (b) on the basis of standards to be established in such rules and regulations, the interest is too remote or too inconsequential to affect the integrity of such services. Such rules and regulations may also establish appropriate limits and reasonable prohibitions upon (a) the ownership by an officer or employee, or member of his immediate family, of securities of any firm, corporation or other entity doing a substantial volume of business with the Corporation; (b) the present or future association by an officer or employee (or former officer or former employee), or member of his immediate family, with any firm, corporation or other entity doing a substantial volume of business with the Corporation; and (c) the conduct or transaction of any corporate-related business or affairs by the Corporation through its officers, employees or agents with any former officers or employees of the Corporation or with any entities with which or persons with whom any former officer or employee is associated.

Subpart G—Deposits and Accounts

§ 1601.41 Deposits and accounts.

All funds of the Corporation, not otherwise employed, shall be deposited from time to time in general or special accounts in such banks, trust companies or other depositories as the Board may select, or as may be selected by an officer, agent or employee of the Corporation to whom such power has been delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of the Corporation, checks, drafts and other orders for the payment of money that are payable to the order of the Corporation may be endorsed, assigned and delivered by any officer of the Corporation designated by the Board.

Subpart H—Seal

§ 1601.42 Seal.

The Corporation shall have a corporate seal, which shall include the words "Established by Act of Congress July 25, 1974" and shall be in the form adopted by the Board.

Subpart I—Fiscal Year

§ 1601.43 Fiscal year.

The fiscal year of the Corporation shall begin on October 1.

Subpart J—Indemnification

§ 1601.44 Indemnification.

(a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a Director, officer, employee or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action, suit or proceeding, had no reasonable cause to believe his conduct was unlawful. The

termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good failth and in a manner which he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor, by reason of the fact that he is or was a Director, officer, employee or agent of the Corporation, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this section or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this section (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this section, respectively. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of Directors eligible to vote who were not parties to such action, suit or proceeding, or (2) if such qorum is not obtainable or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any case upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any By-Law, agreement or vote of disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Subpart K—Amendments

§ 1601.45 Amendments.

These By-Laws may be amended by a vote of a majority of the Directors in office, provided, that (a) such amendment is not inconsistent with the Act; (b) the notice of the meeting at which such action is taken shall have stated the substance of the proposed amendment; (c) the notice of such meeting shall have been mailed, telegraphed or delivered to each Director at least five (5) days before the date of the meeting; and (d) whenever feasible, the proposed amendment shall have been published in the Federal Register at least thirty (30) days before the meeting and interested parties shall have been afforded a reasonable opportunity to comment thereon.

Dated: May 30, 1984.

Donald P. Bogard,

President, Legal Services Corporation.

[FR Doc. 84-14910 Filed 6-1-84; 8:45 am]

BILLING CODE 6820-35-M

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45 CFR Part 1628

Procedures Governing Recipient Fund Balances

AGENCY: Legal Services Corporation.

ACTION: Final rule—correction.

SUMMARY: On May 21, 1984, the Corporation published as a final rule a revised Part 1628—Procedure Governing Recipient Fund Balances (49 FR 21331). In the preparation of this document, paragraph (d)(3) was inadvertently dropped from the text of § 1628.4 Procedure. This correction is therefore published to give the complete version of that section as adopted by the Corporation.

EFFECTIVE DATE: June 20, 1984.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Assistant General Counsel, (202) 272-4010.

List of Subjects in 45 CFR Part 1628

Legal services, Fund balances.

For the reasons set out above, § 1628.4 of 45 CFR Part 1628 is corrected to read as follows:

§ 1628.4 Procedure.

(a) Any recipient whose audited fund balance exceeds the ceiling set forth in § 1628.1 shall submit to the Director, Office of Field Services, within 120 days after the close of the recipient's fiscal year, a statement of the fund balance which occurred according to the annual audit required by section 1009(c)(1) of the Legal Services Corporation Act, as amended. The funds will be recovered as set forth in § 1628.3, unless excluded by a specific waiver.

(b) The recipient may, within 120 days after the close of its fiscal year, apply to the Director, Office of Field Services for a waiver of the 10% ceiling. Such application must specify:

(1) The fund balance amount according to the recipient's annual audit;

(2) The reason such fund balance has been attained;

(3) The recipient's plan for the disposition or reserve of such fund balance amount within the current grant period;

(4) The amount of fund balance projected to be carried forward at the close of the recipient's then current fiscal year; and,

(5) The extraordinary circumstances justifying the retention of the fund balance which include windfall receipts for which a recipient cannot reasonably plan, such as proceeds from the sale of property, receipt of direct payment to attorneys, and collection of insurance proceeds.

(c) Excess fund balance amounts shall not be expended by the recipient prior to approval of the waiver application by the Corporation.

(d) The decision of the Corporation regarding the granting of a waiver (other

than the automatically granted waiver for a cash reserve for compensated bar programs) shall be guided by the statutory mandate requiring the recipient to provide high quality legal services in an effective and economical manner. In addition, the Corporation shall give special consideration to the following factors in reviewing a waiver request submitted pursuant to this regulation:

(1) Emergencies, unusual occurrences, or other extraordinary circumstances giving rise to the existence of a fund balance in excess of 10%, and the special needs of clients;

(2) The need for a recipient which operates a compensated bar program or component to maintain a cash reserve; and

(3) The recipient's financial management record.

(e) Excess fund balance amounts approved for expenditure must be separately reported in the current fiscal year audit. This may be done by establishing a separate fund or by providing a separate supplemental schedule as part of the audit report.

(Secs. 1006(b)(1)(A), 1007(a)(3); 42 U.S.C. 2996e(b)(1)(A), 42 U.S.C. 2996f(a)(3))

Dated: May 29, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-14911 Filed 6-1-84; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1123; RM-4520]

FM Broadcast Station in Garberville, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule

SUMMARY: Action taken herein, at the request of Daniel J. Healy, assigns Class C2 Channel 284 as a substitute for Channel 261A at Garberville, California, and modifies the license of Station KERG (Channel 261A) to specify operation on the Class C2 channel. The assignment will provide the community with its first wide coverage FM channel.

EFFECTIVE DATE: August 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Garberville, California) (MM Docket No. 83-1123 RM-4520).

Adopted: May 15, 1984.

Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 49882, published October 28, 1983, proposing the substitution of Class C Channel 284 for Channel 261A at Garberville, California. The *Notice*, adopted in response to a petition filed by Daniel J. Healy ("petitioner"), licensee of Station KERG (Channel 261A), also requested modification of his license to specify operation on Channel 284. Petitioner failed to file comments. However, he did file reply comments reiterating his interest in the channel substitution, if the proposal is adopted.[1] No comments in opposition to the proposal, or any other expressions of interest were received.

2. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. As stated in the *Notice*, Garberville is surrounded by mountainous terrain and valleys and FM reception is severely restricted. Station KERG's present facility is operating atop Pratt Mountain with an antenna height of 771 meters (2,527 feet) and 0.04 kW (40 watts) ERP (which is equivalent to a Class A station operating with 3kW at 300 feet). In order to upgrade the station's current service, petitioner seeks to have his station modified to a higher class channel.

4. After carefully considering the proposal, we believe the public interest would be served by substitution of Class C2 Channel 284 at Garberville in order to provide an increase in coverage for petitioner's station. The Class C2 facility has been created by the new FM rules adopted in BC Docket No. 80-90, 94 F.C.C. 2d. 152 (1983) effective March 1, 1984. This class permits maximum facilities of 150 meters and 50 kW. The current height of KERG's antenna (771 meters) would permit a power increase to 0.90 kW (900 watts). We have authorized in paragraph 6 a modification of the petitioner's license for Station KERG, Garberville, California, to specify operation on Channel 284C2 since there has been no other expressions of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d. 63 (1976).

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Garberville, Calif.	284C2

6. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station KERG, Garberville, California, is modified to specify operation on Channel 284C2, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be constructed to authorize major changes in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-14912 Filed 6-1-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Petitioner's reply comments were not timely filed, but were accompanied by a motion for their acceptance. They will be accepted for the purpose of permiting the petitioner to reaffirm his interest in the proposed channel.

47 CFR Part 73

[MM Docket No. 1144; RM-4552]

FM Broadcast Station in Honolulu, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Communications Hawaii, Inc., assigns Channel 286 to Honolulu, Hawaii, as the community's ninth FM service.

EFFECTIVE DATE: August 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Honolulu, Hawaii) (MM Docket No. 83–1144 RM–4552).

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 51656, published November 10, 1983, proposing the assignment of Channel 286 to Honolulu, Hawaii, as its ninth FM service. The *Notice* was adopted in response to a petition filed by Communications Hawaii, Inc. ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. KHVH, Inc. ("KHVH") filed a petition for rule making, requesting that it be considered herein, seeking the assignment of the maximum number of FM channels to Honolulu, without waiting for individual expressions of interest. We believe it appropriate to consider this petition as comments in this proceeding. The petitioner filed reply comments, stating that the request of KHVH raised issues that more properly should be considered in a separate rule making as it did not specifically address the proposed assignment of Channel 286.

3. Petitioner stated it is fully prepared to design and construct a station to protect the Commission's monitoring station in Waipahu, Oahu, Hawaii, in compliance with the technical requirements of § 73.1030(c) (1)–(5) of the Rules (see paragraph 4, *infra*).

4. The Commission believes that the public interest would be served by the assignment of FM Channel 286 to Honolulu, Hawaii, in order to provide a ninth FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. As noted the proposal must conform with the technical requirements of § 73.1030(c) (1)–(5) of the Rules regarding protection of the Commission's monitoring station at Waipahu, Oahu, Hawaii.

5. As to the request of KHVH to bypass the Commission's procedure of the rule making proceeding to assign FM Channels before accepting applications, we believe the rule making process provides the best means of serving the public interest by determining the community with the greatest need and for which there is a demand. See also *Report and Order*, 47 FR 43698, published October 4, 1982, BC Docket No. 82–124 (see paragraph 4). Also, in the omnibus proceeding, MM Docket No. 84–231, 49 FR 11214, published March 26, 1984, we have proposed the assignment of FM Channel 290 to Honolulu, Hawaii.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Honolulu, Hawaii	226, 230, 234, 238, 248, 253, 258, 262, and 286.

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–14885 Filed 6–1–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–602; RM–4401]

FM Broadcast Station in Victoria, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 265A to Victoria, Texas, in response to a petition filed by Alejandro Luna, Robert D. Rivera and Robert Rivera, Jr. The assignment could provide Victoria with its fourth FM service.

EFFECTIVE DATE: August 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations, (Victoria, Texas) (MM Docket No. 83–602 RM–4401).

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 48 FR 29921, published June 29, 1983, in response to a petition filed by Alejandro Luna, Robert D. Rivera and Robert Rivera, Jr. ("petitioners"), proposing the assignment of FM Channel 265A to Victoria, Texas as its fourth local FM broadcast service. Supporting comments were filed by the petitioners in which they reaffirmed their intention to apply for the channel, if assigned.[1]

2. We believe the public interest would be served by a grant of petitioner's request since it could provide a fourth FM service to Victoria, Texas. As indicated in the *Notice*, the channel can be assigned in compliance with the minimum distance separation requirements.

3. Mexican concurrence has been received in the assignment of Channel 265A to Victoria, Texas.

4. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Victoria, Tex	236, 254, 265A, and 300.

5. It is further ordered, That this proceeding is terminated.

[1] Opposing comments were filed by Cosmopolitan Enterprises of Victoria, Inc., licensee of KTXN of Victoria, Texas. However, the comments were received at the Commission after the period for filing had expired and no reason was given for the late filing. Therefore we shall deny acceptance of the opposition.

6. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-14855 Filed 6-1-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-516; RM-4414]

TV Broadcast Station Tolleson, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Assignment of UHF Television Channel 51 to Tolleson, Arizona, in response to a petition filed by Saul Dresner. The assignment could provide a first television service to Tolleson.

EFFECTIVE DATE: August 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations, (Tolleson, Arizona) (MM Docket No. 83–516 RM–4414).

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 28499, published June 22, 1983, issued in response to a petition for rule making filed by Saul Dresner ("petitioner"), proposing the assignment of UHF Television Channel 51 to Tolleson, Arizona, as its first television service. In response to the *Notice,* petitioner filed comments and restated his intention to apply for the channel, if assigned. No other comments were received.

2. Tolleson (population 4,433)[1] is located in Maricopa County (population 1,508,030), a suburb of Phoenix, Arizona.

[1] Population figures are taken from the 1980 U.S. Census.

3. Mexican concurrence has been obtained in the proposed assignment of Channel 51 to Tolleson, Arizona.

4. In view of the fact that the assignment could provide a first television service to Tolleson, we believe that the public interest would be served by assigning UHF Television Channel 51 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

5. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Tolleson, Ariz.	51

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-14857 Filed 6-1-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-511; RM-4415]

TV Broadcast Station in Tequesta, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Assignment of UHF Television Channel 25 to Tequesta, Florida, in response to a petition filed by Saul Dresner. The assignment could provide a first commercial television service to Tequesta.

EFFECTIVE DATE: August 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Tequesta, Florida) (MM Docket No. 83–511 RM–4415).

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 28493, published June 22, 1983, issued in response to a petition for rule making filed by Saul Dresner ("petitioner"), proposing the assignment of UHF Television Channel 25 to Tequesta, Florida, as that community's first television assignment. Petitioner submitted information in support of the *Notice* and restated his intention to apply for the channel, if assigned. No other comments were filed.

2. Tequesta (population 3,635) [1] in Palm Beach County (population 573,125), is located in southeastern Florida, approximately 24 kilometers (15 miles) north of West Palm Beach.

3. In view of the fact that the assignment could provide a first local television service to Tequesta, we believe that the public interest would be served by assigning UHF Television Channel 25 to that community. The channel can be assigned in compliance with the minimum distance separation requirements, and other technical criteria.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Tequesta, Fla.	25

[1] Population figures are taken from the 1980 U.S. Census.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–14868 Filed 6–1–84; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 49, No. 108
Monday, June 4, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 991

[Docket No. F&V AO-357-A-2]

Hops of Domestic Production; Hearing on Proposed Amendment of the Marketing Order, as Amended; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the docket number contained in the two prehearing notices published in the Federal Register on January 11, 1984 (49 FR 1380), and March 15, 1984 (49 FR 9740), and the notice of hearing published May 3, 1984 (49 FR 18862). The correct docket number is AO-357-A-2.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

The following correction is made in the docket number wherever it appears in the following three notices published in the Federal Register. The docket number should be changed from docket number "AO-352-A-2" to read "AO-357-A-2" in the following documents.

(1) Notice of opportunity to submit proposals published January 11, 1984 (49 FR 1380).

(2) Extension of time for submitting proposals published March 15, 1984 (49 FR 9740).

(3) Notice of public hearing on proposed amendment published May 3, 1984 (49 FR 18862).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 29, 1984.

Thomas R. Clark,

Deputy Director Fruit and Vegetable Division.

[FR Doc. 14331 Filed 6-1-84; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2900

Proposed Amendment Regarding Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act of 1978

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to amend its regulations certifying essential agricultural uses and requirements under section 401(c) of the Natural Gas Policy Act of 1978. This amendment would classify the production of food-grade citric acid and food-grade enzymes as "food processing" rather than as the production of "fertilizer and agricultural chemicals". The proposed amendment is in response to a petition submitted by Miles Laboratories, Inc.

DATES: Written comments are due by 4:30 p.m., August 3, 1984.

ADDRESS: All written comments should be sent to Earle E. Gavett, Director, Office of Energy, Room 144-E Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Director, Office of Energy, Room 144-E Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250; Telephone 202-447-2634.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 401 of the Natural Gas Policy Act of 1978 (GNPA) (15 U.S.C 3391(c)), the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28732).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines, in accordance with the NGPA.

This proposed action has an impact only in instances of curtailments of deliveries from interstate natural gas pipelines, in which case it would grant priority for 100 percent of current natural gas requirements for certified uses.

II. Description of Proposal

Section 401(a) of the Natural Gas Policy Act provides certain protection against the curtailment of those "agricultural uses" of natural gas which the Secretary of Agriculture determines under section 401(c) to be "essential" uses. Such "agricultural uses" fall into two classes.

Those uses certified under section 401(f)(1)(A), such as irrigation, crop drying, and food processing, are protected from curtailment to the extent of their total natural gas use for feedstock, process, and boiler fuel uses. Those certified under section 401(f)(1)(B), including fertilizers and agricultural chemicals, are protected only to the extent of their process and feedstock use of natural gas. Boiler fuel use is not protected from curtailment under this section.

The NGPA does not permit distinctions in determining the types of food products to be certified as essential agricultural uses. Instead, its language indicates that all food products are to be so certified. The production of food-grade citric acid and food-grade enzymes should be included in the list of essential agricultural uses under section 401(f)(1)(A) because they are produced from food commodities, are manufactured under food-grade standards for sanitation and cleanliness, and are used solely as food additives.

Food-grade citric acid and food-grade enzymes, classified in Standard Industrial Classification (SIC) Code 2869, Industrial Organic Chemicals, Not Elsewhere Classified, have been certified by the Secretary under section 401(f)(1)(B)—that is, only to the extent of the process and feedstock natural gas requirements for their production (44 FR 29709).

Although the SIC Codes have been used by the Department as a method of

certifying large groups of products, the SIC Code under which a product is produced has never been considered determinative in the certification procedure. For example, SIC Code 3497 Metal Foil and Leaf initially was not included among essential agricultural uses but certain of the products produced under that SIC Code, having been shown to be integral to food quality maintenance, have been certified as essential agricultural uses of natural gas under section 401(f)(1)(A) as "SIC 3497 Metal Foil and Leaf (food related only)". Further, SIC Code 2869 Industrial Organic Chemicals, n.e.c. has been certified as essential agricultural use to the extent of process and feedstock use of natural gas only under section 401(f)(1)(B) (44 FR 28786), but one of the products produced under that SIC Code, monosodium glutamate, has been shown to be food processing and therefore have been certified under section 401(f)(1)(A) (49 FR 25319).

As with the monosodium glutamate certification, no attempt is being made here to include all of SIC 2869 as essential agricultural uses. The majority of these products have no food application. However, since food-grade citric acid and food-grade enzymes are manufactured from agricultural commodities and used as food additives, they must be certified as essential agricultural uses of natural gas under section 401(f)(1)(A).

Miles Laboratories, Inc. ("Miles") has petitioned the USDA to amend 7 CFR 2900.3 to include, under the "Food and Natural Fiber Processing—Food" list, the production of food-grade citric acid and food-grade enzymes. Certification as requested in the petition would protect the total natural gas use of the food-grade citric acid and food-grade enzymes industries from curtailments of deliveries from interstate pipelines.

Food-Grade Citric Acid—Food-grade citric acid is produced by two domestic manufacturers. Petitioner Miles operates, on a continuous basis, plants located at Elkhart, Indiana and Dayton, Ohio to process and produce food-grade citric acid. Petitioner states that the only other domestic producer of food-grade citric acid, Pfizer, Inc., does not use natural gas in its production.

Miles manufactures food-grade citric acid by submerged fermentation of a corn-derived sugar substrate (glucose syrup) that includes nutrients and trace metals. The substrate is made directly from corn as a corn-starch hydrolyzate, which is classified under the major heading of "food" in SIC 2046 Wet Corn Milling. The fermentation is a biological process whereby microbes ingest, transform, and excrete the substrate. After the fermentation is completed, the fermented broth is filtered and the filtrate is further treated to isolate the citric acid in an aqueous extract. The aqueous extract, which contains the citric acid, then is evaporated, crystallized, dried, screened and packaged for shipment. All chemicals used in the process are of food-grade quality and the process is subject to detailed Food and Drug Administration regulations for the processing of food and food additives. 21 CFR 110, 173.280, 182.1033.

Food grade citric acid is sold to food processors (SIC 20) for use in a wide variety of foods. It is used extensively to provide tartness, adjust pH and enhance flavors in such food as canned vegetables and fruits, noncarbonated fruit drinks, jellies, jams, preserves, carbonated beverages, soft drink mixes, sherbets, water ices, gelatin desserts, and candy. Due to its ability to chelate metals and inactivate certain enzymes, citric acid also is used to preserve or inhibit color and flavor deterioration in frozen foods such as fish, shellfish and fruits and in fats, oils, and fat-containing foods. Citric acid is listed in the Food Chemicals Codex, and authoritative compilation of foods and food additives.

Miles Laboratories operates 2 plants and uses a maximum of 2,500 Mcf of natural gas per day as boiler fuel. This certification would add about 910 million cubic feet to the total agricultural gas use of 1,392 billion cubic feet per year, less than one-tenth of 1 percent of the interstate gas component identified as essential agricultural use in the May 14, 1979 combined Environmental Impact Statement and Final Impact Statement.

Food-Grade Enzymes—Food-grade enzymes are produced by four major domestic manufacturers. Petitioner Miles operates on a continuous, basis, plants located at Clifton, New Jersey and Elkhart, Indiana. Other major manufacturers are Enzyme Bio-Systems Ltd., GB Fermentation Industries Inc., and Novo Biochemical Industries.

Enzymes are biological catalysts produced by and found in all living cells to accomplish specific bio-chemical reactions. Enzymes are a natural component of most foods.

Miles manufactures food-grade enzymes, including amylases, amyloglucosidase, glucose isomerase, glucose oxidase, pectinases and proteases, by submerged fermentation, with various micro-organisms, of a culture media. The essential constituents of the culture media are selected from a class of substrates including corn meal, soybean meal, corn starch, corn steep liquor, beet pulp dextrose, glucose sirup, lactose, nutrients and mixtures thereof. The precise composition of the culture media varies depending on the enzymes to be produced and the microorganism and growing procedure to be employed. The fermentation is purely a biological process whereby microbes ingest and transform the culture media. After the fermentation is completed, the fermented media is filtered and further purified as needed. All culture materials used in the processes are of good-grade quality and processes are subject to detailed Food and Drug Administration regulations for the processing of food and food additives. Food-grade enzymes are sold to food processors (SIC Code 20) for use in a wide variety of foods. The amylases, amyloglucosidase and glucose isomerase are used by syrup and candy manufacturers, brewers, distillers and other food processors to convert starch into glucose or into an isomerized syrup containing high concentrations of fructose. Glucose oxidase is used as an antioxidant to remove traces of oxygen, thereby inhibiting flavor and color deterioration in prepackaged, canned or bottled food products such as prepared meat cuts, salad dressings and high-fat foods. It also is used to remove traces of glucose from eggs prior to drying. Pectinases are used in the processing of fruit products, to degrade pectins that impair the color, clarity and flavor of fruit juices. The proteases are used by bakers to control the properties of bread and cracker dough, to reduce the energy required for dough mixing and to produce a more uniform crumb structure in the final product.

The major manufacturers of food-grade enzymes use about 210 million cubic feet of natural gas per year. This certification would add this 210 million cubic feet to the total agricultural gas use of 1,392 billion cubic feet, only about 1 one-hundredth of 1 percent of the interstate gas component identified as essential agricultural use in the May 15, 1979 combined Environmental Impact Statement and Final Impact Statement. This quantity could increase over the next year or two as new plants come on line or old ones convert to natural gas.

USDA believes that sufficient justification exists to institute rulemaking procedures to modify the existing Essential Agricultural Use certification.

III. Regulatory Information

The proposed action does not alter the impacts described or conclusions drawn in the combined Environmental Impact Statement and Final Impact Statement

developed May 14, 1979, in connection with the Essential Agricultural Uses Requirements certification rule (7 CFR 2900). A paper describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Earle Gavett, Director, Office of Energy, Room 144–E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Executive Order 12291

This proposed action has been reviewed under U.S. Department of Agriculture procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor." This proposed action has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million, and there will be no increase in costs or prices for individuals, organizations, or other government agencies affected. There will be no significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets because the proposed action affects a total of only 1,120 million cubic feet per year of natural gas. It has no impact at all except in instances of curtailments of deliveries from interstate natural gas pipelines, in which case it would grant priority for 100 percent of current natural gas requirements for the certified commodities.

Paperwork Reduction Act

This rule imposes no information requirements.

Regulatory Flexibility Act of 1980

Earle E. Gavett, Director, Office of Energy, has determined that this action will not have a significant economic impact on a substantial number of small entities since it would affect fewer than 10 companies and only 1,220 Mcf of natural gas per year.

National Environmental Policy Act of 1969

The proposal has been reviewed pursuant to USDA's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and USDA has determined that the proposed action alters the impacts disclosed by less than one-tenth of 1 percent and does not affect the conclusions drawn in the combined Environmental Impact Statement and Final Impact Analysis prepared May 14, 1979, in connection with the Essential Agricultural Uses and Requirements certification rule. Therefore, this action is proposed under the same analysis.

List of Subjects in 7 CFR Part 2900

Citric acid, food grade, enzymes, food grade

IV. Public Comment Procedures

The public is invited to participate in any aspect of this proposed amendment by submitting data, views, or arguments with respect to the proposal herein set forth.

Written comments must be submitted by 4:30 p.m., August 3, 1984, to the address indicated in the "Address" section of the preamble, and should be identified on the outside envelope and on the document with the designation: "Part 2900—Food-grade Citric Acid and Food-Grade Enzymes." Five copies should be submitted.

All comments received will be available for public inspection in Room 144–E Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. All comments received by 4:30 p.m., August 3, 1984 and other relevant information will be considered by the Director, Office of Energy before final action is taken on this proposed amendment.

Any information or data submitted which is considered by the party submitting it to be confidential must be so identified and submitted in writing, one copy only. The Director reserves the right to determine the confidential status of the information or data and to treat it accordingly.

PART 2900—[AMENDED]

§ 2900.3 [Amended].

In consideration of the foregoing, it is proposed to amend Chapter XXIX of Title 7, § 2900.3 Code of Federal Regulations by changing, at the end of the "Food and Natural Fiber Processing—Food" list: 2869—Industrial Organic Chemicals (Monosodium Glutamate only) to: 2869—Industrial Organic Chemicals (Monosodium Glutamate, Food-grade Citric Acid and Food-Grade Enzymes only).

Authority: 15 U.S.C. 3391.

Dated: May 29, 1984.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84-14900 Filed 6-1-84; 8:45 am]

BILLING CODE 3410-73-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 221, 234, and 235

[Docket No. R-84-1153; FR-1915]

Insurance of Indexed Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide for the insurance of Indexed Mortgages covering certain one- to four-family dwellings under section 203 of the National Housing Act and one-family condominium units under section 234(c) of the Act.

An indexed mortgage (IM) is a mortgage, the terms of which allow for periodic adjustments to the mortgage principal balance and to the mortgagor's payments. These adjustments would correspond to changes or percentages of changes in the annual rate of inflation as measured by a specified price index. The mortgage has a fixed term, and after each year, a new amortization schedule is prepared, based upon the most recent adjustment to the principal balance, for the remaining mortgage term.

The Department's proposed regulation is intended to safeguard mortgagors against the possibility of rampant inflation. At the same time, the rules prescribed should be sufficiently flexible to safeguard mortgagees' economic interests and to make IMs attractive for sales in secondary markets.

DATE: Comments must be received by August 3, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Room 9270, Department of Housing and Urban Development, 451 Seventh St., SW., Washington, D.C. 20410, (202) 755–6720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

The Department's proposed regulation is intended to safeguard mortgagors against the possibility of rampant inflation. At the same time, the rules prescribed should be sufficiently flexible to safeguard mortgagees' economic interests and to make IMs attractive for sales in secondary markets.

The regulation proposed addresses a variety of issues inherent in the use and insuring of IMs. These include the scope of the program, frequency and nature of adjustments to the mortgage principal and mortgagor's monthly payments, disclosure requirements, and what are acceptable mortgage insurance premiums. With respect to the specific question of imposing constraints on adjustments to principal and monthly payments, the regulation ultimately adopted may reflect one or more of a variety of schemes. The Department has set out for review and comment several alternative regulatory approaches to this issue. The Department reserves the right to adopt one or more of these or other closely related approaches, in its final regulation, once public comments have been received and reviewed.

Because the concept underlying the IM is somewhat novel, the actual use of this instrument has been severely limited to date. For this reason, the Department, in developing its final regulation, is seeking expansive public comment, focusing on a number of salient issues, from all sectors of the housing industry, economists, consumers and other interested persons and organizations. Given that public demand for alternatives to level payment, fixed rate mortgages has increased dramatically over recent years, this regulation, when final and effective, could lead to development of a mortgage instrument that would increase homeownership affordability and encourage continued investment in housing.

The Department intends to conduct a demonstration program for IMs, to the extent practicable, once a final regulation has been adopted.

The Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, 97 Stat. 1153 (1983 Act) contains provisions authorizing the Department to insure various kinds of mortgage instruments that do not provide for fixed rate, level payments. These proposed regulations implement the new legislation with respect to indexed mortgages for certain single family dwellings.

Section 441 of the 1983 Act makes various amendments to section 245 of the National Housing Act (Act). Section 245(a) is amended to authorize the Secretary to insure indexed mortgages if the Secretary determines that such mortgages: (1) Have promise for expanding housing opportunities or meet special needs; (2) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such mortgages; and (3) have a potential for acceptance in the private market. A new subsection 245(c) has been added to section 245 setting out maximum limits on the size of the initial loan to be insured, and providing that the monthly payments and principal obligation cannot at any time increase at a rate greater than the increase in inflation reflected in the price index stipulated. Section 245(c) further provides that the Secretary should, in carrying out the provisions of this subsection, give a priority to mortgagors who have not owned dwelling units within the preceding three years. Finally, the statute indicates that the Department should develop rules for the insuring of IMs and, to the the extent practicable, conduct a demonstration program with indexed mortgages.

An IM is one alternative to the conventional level payment, fixed interest rate mortgage. A conventional loan features a fixed interest rate which reflects the lender's desired rate of return plus its estimate of the change in interest rates over the term of the mortgage. Because lenders who hold mortgages in portfolio finance these mortgages with short term obligations or deposits, the match between the effective interest rate on these mortgages and the interest paid on obligations or deposits critically affects the financing viability of the lending institutions. This issue assumes overwhelming importance during periods of high and unstable interest rates and explains why many lenders have switched to alternative mortgage instruments in the past few years. If the interest rate set for fixed rate mortgages is too low, a lender will suffer a capital loss and commensurately reduced earnings. This is particularly serious for traditional mortgage lenders who must borrow to support long-term lending. If the interest is set too high, the purchase may prove unaffordable to many homebuyers. Also, if interest rates fall, loans will prepay rapidly as borrowers refinance at the lower rate, again to the detriment of lenders, particularly those who borrowed at the higher rate to support the mortgage loan. Since interest rates are a measure of expected inflation and capital market conditions, an IM is designed to reduce inflation-related risks since mortgage payments are adjusted periodically in accordance with actual changes in a price index.

The legislative history underlying section 441 of the 1983 Act reflects Congressional concern that, notwithstanding the probable viability of indexed mortgages during periods of high or unstable interest rates, provisions permitting the upward adjustment of outstanding principal and monthly payments could impose undue risks to borrowers and to the Department's insurance fund. See H. R. REP. NO. 98-123, 98th Cong., 1st Sess. 66 (1983). This proposed rule is designed both to minimize such risks and to insure that mortgagors are fully informed of the nature of and potential risks inherent in an indexed mortgage.

II. Major Features of the IM Program

IMs would be insured in accordance with the requirements of section 245(a) of the National Housing Act. Insurance would be written under section 203 of that Act, HUD's basic home mortgage insurance authority, and under section 234(c), HUD's insuring authority for one-family condominium units. With respect to mortgage limits, the principal obligation of the mortgage could not *initially* (i.e., as of the date the mortgage is accepted for insurance) exceed the limits currently applicable to the Department's section 203(b) and section 234(c) programs. Future increases in the size of the principal balance would be permitted, however, within the parameters of the proposed regulatory constraints described in Part V of this preamble.

Given the novelty of IMs and the potential for excessive risks associated with their use, the Department proposes to limit its indexed mortgage insurance program to single-family dwellings under section 203(b) and to condominium units under section 234(c) of the Act.

Finally, the Government National Mortgage Association will soon formulate and publish amendments to 24 CFR Part 390 that will provide for the securitization of other than fixed rate, level payment mortgages, including indexed mortgages insured by the Department.

III. Selection of the Price Index

The Department proposes to use the Consumer Price Index, U.S. City Average, All Items, for All Urban Consumers, (CPI-U) for the purpose of measuring changes in the rate of inflation or deflation. This price index is computed and published on a monthly basis by the United States Department of Labor's Bureau of Labor Statistics.

The CPI–U compares the cost of a select group of goods and services over a period of time (e.g., a month, a year or a decade). The "base period" (i.e., the point in time to which future prices are compared) for the CPI–U is 1967. For example, a review of the CPI–U reveals that a group of goods and services that could have been purchased for $101 in October, 1967 cost $105.70 in October, 1968. Thus, the rate of inflation increased by about 4.7 percent over that one year period. This inflation rate is determined by subtracting the October, 1967 index price ($101) from the October, 1968 index price ($105.70) and then dividing the difference ($4.70) by the earlier index price

$$\frac{4.70}{101.00} \times 100 = 4.65 \text{ percent}$$

As is the case with any price index, the CPI–U selection of goods and services may not accurately reflect consumer habits over a particular period of time. It may include items that have fallen out of favor with the consuming public, or items that can distort general trends in the upward or downward pricing of goods and services. In times past, it has even shown a significantly greater rate of increase in inflation than other indices, and has sometimes fluctuated widely on a month-to-month basis. Even so, the CPI–U seems preferable to other indices including the Personal Consumption Expenditures Deflator, the Producer Price Index, or some component of each. Factors recommending the CPI include the following:

First, the CPI–U is the most readily available, and of those mentioned above, the only index that pertains specifically to changes in prices consumers pay for goods and services over time. The Personal Consumption Expenditures Deflator is a surrogate measure derived from using the CPI–U.

Second, since it is the most readily available and most widely publicized, the CPI is already used in a variety of ways including: (1) Calculating cost-of-living adjustments in wages and salaries and some retirement plans; (2) estimating current purchasing power of money, and (3) most recently, as the base for annual adjustments in Federal income tax brackets.

Third, the harshest criticism of the CPI in the past (i.e., treatment of the homeownership component of the index, which was heavily influenced by mortgage interest rates) has been largely resolved. Starting in January 1983, the homeownership component of the index was revised to include a rental equivalent measure of housing costs. Although it is now too early to determine with certainty how this new technique will affect the CPI in the future, an experimental index using a similar concept of shelter costs did produce a significantly lower rate of inflation in the past.

Fourth, lenders who may originate IMs will likely test their prospective rate of return against recent past performance of the CPI–U, and price these loans accordingly. Moreover, in nearly every analysis of "real" interest rates, the CPI has been used as the base index against which the nominal level of interest rates are contrasted.

Using all components of the CPI–U, as opposed to one or some, would most likely reflect actual changes in inflation or deflation over time. Preselection of one or more components of a price index implies that these items are more directly related to: (1) Lenders' costs of funds, (2) the "ability" of the household to meet its monthly debt service requirements as its income increases, or (3) the "willingness" of the household to meet its debt service requirements—with this willingness being influenced by the equity build-up in the property. In point of fact, no price index or individual component thereof is consistently related to any of these elements. Similarly, there is no consistent relationship between household income and inflation, or between inflation and home value appreciation.

IV. Adjustment Periods for IMs

Initially, the Department proposes that adjustments to the mortgage principal balance and to the mortgagor's monthly payments shall occur on an annual basis, and correspond to the change in the CPI–U over a one-year period. Second, the proposed regulation would require that all mortgage loans originated within the same calendar quarter (i.e. January through March, April through June etc.) share a common base index month, which would be the last month of that quarter. Third, the initial adjustment could not occur sooner than 15 months from the date upon which any loan was originated, or later than 18 months from that date. These requirements would (1) conform to normal servicing patterns for adjusting monthly payments annually to account for charges in required tax and insurance escrows, and (2) facilitate the secondary marketing of pooled IMs by providing for only four adjustment periods acceptable to the Department's FHA insurance program. Under this proposal, all indexed mortgage loans originated in the same calendar quarter would share (1) a common CPI–U index month figure for calculating adjustments to principal balance and monthly payments and (2) a common annual effective date of adjustment. These uniform index month figures and adjustment dates are depicted below:

Quarter	CPI–U month	Adjustment date
1st	March	July 1.
2d	June	October 1.
3rd	September	January 1.
4th	December	April 1.

The illustration below provides an example of this process for all loans originated between January 1 and March 31, 1985. These mortgages would use the CPI–U price index figure for March, 1985 as the base index figure for determining the *initial adjustment.*

Demonstration of Relevant Indexing/Adjustment Dates (Applicable to all loans originated between January 1, 1985 and March 31, 1985)

Quarter

Jan.–Mar. 1985[1]
Apr.–June 1985
July–Sept. 1985
Oct.–Dec. 1985
Jan.–Mar. 1986[2]
Apr.–June 1986[3 4]
July–Sept. 1986[5]

For all of these loans, one would calculate the change in CPI–U by comparing the 1985 opening base index figure to the March, 1986 index figure. The actual adjustment to any mortgage principal balance and mortgagor's monthly payments would be made on July 1, 1986 (no sooner than 15 months or later than 18 months from the time any 1st quarter mortgage was originated). The mortgagor would receive notification of the upcoming adjustment some time between 30 and 45 days in advance of the actual adjustment. In the year following, the March, 1986 CPI–U index figure would become the base index figure for calculating the adjustment for the one-year period ending in March, 1987. The actual adjustment would occur on the

[1] For all loans originated in the quarter, the Base CPI–U index figure for calculating the initial adjustment is the March, 1985 CPI–U figure.

[2] The March, 1986 CPI–U figure is used to calculate the change in the rate of inflation over the past one-year period.

[3] Actual publication of the March, 1986 figure occurs in April, 1986.

[4] The Mortgagor is notified of the adjustment to principal balance and monthly payments for the 12-month period beginning on July 1, 1986 at a time, after publication of the March, 1986 CPI–U figure, which is not sooner than 45 days nor later than 30 days from the date of adjustment.

[5] The date of adjustment is July 1, 1986

anniversary date of the first adjustment (i.e., on July 1, 1987). This pattern would be followed for each subsequent year through the mortgage term.

The Department invites specific comment on whether it should, or should not, calculate and publish on a quarterly basis the loan balance adjustment factor that is applied annually to indexed mortgage principal amounts. Depending upon the nature and number of constraints that the Department ultimately adopts for its eligible index mortgage program or programs, each publication may include more than one factor. The alternative procedure of allowing individual mortgagees to make this calculation could result in the application of disparate factors depending upon how mortgagees attempt to utilize the CPI–U.

V. Magnitude of Adjustments

During periods of high inflation, and major changes in the index, a mortgagor's outstanding principal balance and monthly payments will experience sharp increases in nominal dollar terms. While income levels and home values would also increase, the increases need not be commensurate with changes in the CPI–U. Moreover, individual variances between the rate of change in the CPI–U, income growth, and home appreciation may be large. Therefore, the department considers it desirable and prudent to impose regulatory constraints upon the magnitude of adjustments for an IM under the Department's insurance program.

The following discussion includes a series of tables demonstrating how adjustments to IMs occur, using hypothetical mortgage amounts and regulatory constraints. In certain instances, formulas are employed to calculate interest rate yields and an adjustment factor. The formulas used are somewhat simplified, because they fail to reflect the effect of monthly compounding of mortgage payments on the principal balance. They are being used now to facilitate understanding of how an IM works. However, any formulas employed in a final rule will be precise to ensure that real interest rate yields and adjustments to principal are accurate.

Table 1 below shows how an IM in its pure form would be amortized over a 30-year mortgage term. For purposes of this example, the original loan balance is $75,000 and the lender's (fixed) "real" interest rate is 4 percent. While the real interest rate is negotiable between the mortgagee and morgagor, the 4 percent example reflects a widely accepted reasonable real rate of return for lenders over recent years. Fixed rate, level payment mortgage loans bearing an interest rate of about 14 percent reflect lenders' desire to achieve an inflation-free return or 4 percent of the loan, where 10 percent inflation is anticipated. In fact, this 10 percent may reflect not only expected inflation, but other costs or risks associated with fixed rate, level payment loans. The annual rate of inflation shown in this example assumes a recurring 12-year cycle that reflects actual CPI inflation rates for the twelve-year period ending in 1983.

TABLE 1

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cumulative CPI index
1	75,000	358.06	73,679	3.30	3.30	100
2	76,111	369.88	74,631	8.50	8.50	103
3	81,039	401.32	79,436	11.10	11.10	112
4	88,253	445.86	86,399	6.60	6.60	125
5	92,102	475.29	90,045	5.10	5.10	133
6	94,637	499.53	92,387	6.80	6.80	140
7	98,670	533.50	96,169	7.40	7.40	149
8	103,286	572.98	100,490	10.80	10.80	160
9	111,343	634.86	108,120	10.80	10.80	177
10	119,797	703.42	116,080	8.50	8.50	196
11	125,947	763.21	121,750	5.00	5.00	213
12	127,837	801.37	123,251	3.80	3.80	224
13	127,934	831.83	122,980	3.30	3.30	232
14	127,038	859.28	121,711	8.50	8.50	240
15	132,057	932.32	126,042	11.10	11.10	260
16	140,032	1,035.80	133,078	6.60	6.60	289
17	141,861	1,104.17	134,145	5.10	5.10	308
18	140,986	1,160.48	132,546	6.80	6.80	324
19	141,559	1,239.39	132,178	7.40	7.40	346
20	141,959	1,331.11	131,474	10.80	10.80	372
21	145,673	1,474.87	133,581	10.80	10.80	412
22	148,008	1,634.15	134,065	8.50	8.50	456
23	145,460	1,773.05	129,715	5.00	5.00	495
24	136,201	1,861.71	118,996	3.80	3.80	520
25	123,517	1,932.45	104,930	3.30	3.30	540
26	108,393	1,996.22	88,410	8.50	8.50	558
27	95,925	2,165.90	73,361	11.10	11.10	605
28	81,504	2,406.32	55,413	6.60	6.60	672
29	59,071	2,565.13	30,125	5.10	5.10	716
30	31,661	2,695.95	0	6.80	6.80	753

It is noteworthy that monthly payments for a 30-year fixed rate, level payment mortgage loan of this size would approximate $830, given a predetermined interest rate of 13 percent. A review of Table 1 reveals that the IM loan balance at its highest level would nearly double the original loan amount (in the 22nd year). Monthly payments, while very low at the outset, would increase more than seven-fold over the full term of the mortgage, and nearly double within the first 10 years. At this rate, the risk of mortgagor defaults would clearly exceed acceptable levels.

There are numerous kinds of regulatory constraints that the Department could impose on the use of insured IMs. These include limiting annual adjustments to something less than the actual rate of inflation, placing a ceiling on the size of annual adjustments, shortening acceptable mortgage terms, or any combination thereof. The effect of these measures, independently or in concert, would be to moderate the extent of increase in the mortgage principal and monthly payments, thereby diminishing default risks.

Table 2 below demonstrates the effect of requiring an IM to have a contract interest rate that is the sum of (a) the real interest rate, and (b) an additional rate of interest (a so-called "buffer rate") corresponding to anticipated increases in the. Since a buffer rate reflects anticipated changes in the CPI–U, the higher this rate is set, the larger will be the mortgagor's initial monthly payment schedule. Thereafter, however, payments will not fluctuate as greatly based on adjustments corresponding to actual increases in the CPI–U. This is because the mortgagor is already paying an interest rate which exceeds the real interest rate. In fact, if in any given year the actual rate of change in the CPI–U were the same as the buffer rate, there would be no adjustment to the mortgage principal balance or monthly payments based on the index. Also, in any year where the actual rate of change in the CPI–U is less than the buffer rate, the mortgage principal balance would be adusted downward, and the mortgagor's monthly payments would also be decreased over the next twelve month period. Downward adjustments are reflected in the example in Table 2 for twelve month periods during which the

actual rate of change in the CPI–U was less than the buffer rate.

This example also uses a $75,000 loan, a 30-year term, a 4 percent real rate, and CPI inflation rates for the 12-year period ending in 1983. The buffer rate is established at 5%. Although inflation rates increased by an average of more than 7% annually over the past 12 years, 5% is closer to the average annual CPI rate since 1960, and conforms more closely to the Department's expectation of future annual inflation rates. Accordingly, the contract interest rate for this IM would be 9.2 percent. This rate (slightly higher than a 9% rate based on a simple addition) reflects the following calculation designed to achieve a true real interest rate yield of 4 percent:

(1 + real rate) x (1 + expected inflation)
= (1.04) x (1.05) −1
= 1.092 −1
= .092

The annual adjustment factor is calculated in accordance with the following formula:

$$\frac{1 + \text{actual CPI–U change rate}}{1 + \text{buffer rate}}$$

TABLE 2

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cumulative CPI index
1	75,000	814.29	74,503	3.00	−1.02	100
2	73,902	824.95	72,771	0.50	3.33	103
3	75,197	824.49	74,220	11.10	5.81	112
4	78,930	839.77	78,224	6.00	1.52	125
5	79,426	870.84	78,051	5.10	.10	133
6	78,728	871.49	77,975	6.00	1.71	149
7	79,210	892.93	78,503	7.40	2.23	143
8	80,051	893.60	78,409	10.00	5.52	160
9	83,352	737.19	82,123	10.00	5.52	177
10	82,690	777.91	82,203	0.50	3.33	196
11	83,000	833.04	82,470	9.00	.00	213
12	82,470	833.84	84,769	3.00	−1.14	224
13	83,738	784.65	81,937	3.00	1.02	232
14	80,592	781.73	78,441	8.50	3.33	240
15	81,055	837.65	78,722	11.10	5.81	230
16	83,436	854.70	82,503	6.00	1.52	233
17	81,617	857.81	78,000	5.10	.10	233
18	78,691	819.03	75,070	6.00	1.71	324
19	76,873	833.52	73,191	7.40	2.23	345
20	74,634	833.72	70,755	10.00	5.52	372
21	74,042	853.64	69,003	10.00	5.52	412
22	73,727	1,000.31	69,035	8.50	3.03	435
23	70,479	1,000.00	64,225	5.00	.00	435
24	64,225	1,000.00	57,872	3.00	−1.14	520
25	56,716	1,027.97	49,030	3.00	−1.02	540
26	48,492	1,011.33	42,495	8.50	3.33	558
27	41,635	1,045.04	32,767	11.10	5.81	605
28	34,671	1,105.75	24,155	6.00	1.52	672
29	24,524	1,122.00	12,023	5.10	.10	716
30	12,635	1,123.07	0	6.00	1.71	753

A review of Table 2 reveals that the mortgage principal balance would reach its maximum level at about $88,000. Monthly payments, while initially much higher than for the "pure" IM example, would still be much less than payments for a fixed rate level payment mortgage loan, and yet not subject to dramatic increases. Monthly payments would not even double over the entire mortgage term.

Notably, the proposed rule provides for one alternative regulatory constraint that would require the use of a buffer interest rate for an insured indexed mortgage. Although this proposed rule does not establish any minimum buffer rate to be applied, or buffer rates to be applied in the event that the final rule allows for a range of indexed mortgage plans eligible for insurance, the Department's final rule may impose such a minimum to insure that a mortgagor has an adequate hedge against large changes in the CPI–U. Conversely, this may not be necessary because lenders, faced with a buffer rate, would calculate the mortgage interest rate that reflects their real rate of return, the effect of the buffer rate on principal increases, and other risk factors. Comment is invited on the specific question of whether the Department should establish a minimum buffer rate in the event that this kind of constraint is adopted.

Table 3 reflects the impact of adopting an alternative type of regulatory constraint. Using the same basic assumptions (for the real interest rate, original mortgage balance, mortgage term and CPI inflation rates) as in the "PURE IM" (table 1), the size of adjustments are restricted by an annual ceiling of 10 percent.

TABLE 3

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cumulative CPI index
1	75,000	839.09	73,979	3.00	3.00	100
2	76,111	839.09	74,931	8.50	8.50	103
3	81,039	491.32	79,439	11.10	10.00	112
4	87,380	441.45	85,544	6.00	6.00	125
5	91,163	470.58	89,153	5.10	5.10	133
6	93,709	484.59	91,473	6.00	6.00	149
7	97,633	503.22	95,217	7.40	7.40	143
8	102,283	527.20	99,495	10.00	10.00	169
9	109,445	624.03	109,277	10.00	10.00	177
10	116,934	639.44	113,277	8.50	8.50	196

TABLE 3—Continued

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cummulative CPI index
11	122,906	744.78	118,810	5.00	5.00	213
12	124,751	782.02	120,275	3.80	3.80	224
13	124,845	811.74	120,010	3.30	3.30	232
14	123,971	838.53	118,772	8.50	8.50	240
15	128,868	909.80	122,998	11.10	10.00	260
16	135,298	1,000.78	128,578	6.60	6.60	289
17	137,065	1,066.84	129,609	5.10	5.10	308
18	136,219	1,121.024	128,065	6.80	6.80	324
19	136,773	1,197.49	127,709	7.40	7.40	346
20	137,160	1,286.10	127,029	10.80	10.00	372
21	139,731	1,414.71	128,133	10.80	10.00	412
22	140,946	1,556.18	127,668	8.50	8.50	456
23	138,520	1,688.46	123,527	5.00	5.00	495
24	129,703	1,772.88	113,318	3.80	3.80	520
25	117,624	1,840.25	99,924	3.30	3.30	540
26	103,222	1,900.98	84,192	8.50	8.50	558
27	91,349	2,062.56	69,861	11.10	10.00	605
28	76,847	2,268.82	52,247	6.60	6.60	672
29	55,695	2,418.56	28,404	5.10	5.10	716
30	29,852	2,541.91	0	6.80	6.80	753

A review of this table reveals that the mortgagor's payments would, as in the Pure IM example, initially be very low but would increase sharply over the mortgage term. The outstanding prinicpal balance exceeds $140,000 at its maximum level.

Finally, tables 4 through 6 reveal the impacts of shortening the mortgage term to 15 years for each of the three examples in tables 1 through 3. The effect of shortening a mortgage term is to require the mortgagor to amortize the loan more rapidly. In the example of the pure IM (Table 1), the mortgagor's initial payments would be about 60 percent greater if the term were shortened from 30 to 15 years (Table 4). However, these payments would increase to a maximum payment rate (in the last year) of less than three times the initial payment rate and the mortgage principal balance would only increase, at its maximum level (achieved in the fourth year) to a few thousand dollars more than the original loan obligation.

TABLE 4

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cummulative CPI index
1	75,000	554.77	71,275	3.30	3.30	100
2	73,627	573.07	69,622	8.50	8.50	103
3	75,540	621.78	71,018	11.10	11.10	112
4	78,901	690.80	73,672	6.60	6.60	125
5	78,535	736.40	72,734	5.10	5.10	133
6	76,443	773.95	70,098	6.80	6.80	140
7	74,865	826.58	67,812	7.40	7.40	149
8	72,830	887.75	64,947	10.80	10.80	160
9	71,961	983.62	62,871	10.80	10.80	177
10	69,661	1,089.66	59,178	8.50	8.50	196
11	64,208	1,182.49	52,371	5.00	5.00	213
12	54,980	1,241.62	42,055	3.80	3.80	224
13	43,653	1,288.80	29,679	3.30	3.30	232
14	30,658	1,331.33	15,635	8.50	8.50	240
15	16,964	1,444.49	0	11.10	11.10	260

The example in Table 5 contains the same basic assumption set out in Table 2 (including a 5 percent buffer rate), but also reduces the mortgage term from 30 to 15 years. In this example, the mortgage principal balance never exceeds the original loan obligation, notwithstanding that the balance may be increased or decreased as a result of any given year's adjustment. The maximum annual monthly payment schedule (achieved in the final year of the mortgage term), never exceeds the initial payment schedule by more than about 40 percent.

TABLE 5

Year	Begin balance	Monthly payment	EHD balance	CPI change	Adjustment	Cumulative CPI index
1	75,000	769.65	72,563	3.30	1.62	100
2	71,388	757.19	68,761	8.50	3.33	103
3	71,053	782.43	68,077	11.10	5.81	112
4	72,032	827.88	68,581	6.60	1.52	125
5	69,626	840.50	65,787	5.10	.10	133
6	65,850	841.30	61,637	6.80	1.71	140
7	62,694	855.72	57,999	7.40	2.29	149
8	59,324	875.28	54,060	10.80	5.52	160
9	57,047	923.63	50,959	10.80	5.52	177
10	53,774	974.65	46,733	8.50	3.33	196
11	48,291	1,007.14	40,318	5.00	.00	213
12	40,318	1,007.14	31,579	3.80	−1.14	224

TABLE 5—Continued

Year	Begin balance	Monthly payment	EHD balance	CPI change	Adjustment	Cumulative CPI index
13	31,218	935.63	21,759	3.00	−1.62	203
14	21,398	979.51	11,189	8.50	3.63	240
15	11,562	1,012.16	0	11.10	5.61	200

Finally, the example in Table 6 contains the same basic assumptions set out in Table 3 (including a 10 percent annual ceiling on the adjustment), but reduces the mortgage term from 30 to 15 years. Here again, the result is to expedite amortization, to prevent the mortgage loan balance from even far exceeding the initial loan obligation, and to limit the maximum possible increase in the mortgagor's monthy payment schedule (to about two and one-half times the original payment schedule, in the last year to the mortgage term).

TABLE 6

Year	Begin balance	Monthly payment	End balance	CPI change	Adjustment	Cumulative CPI index
1	75,000	554.77	71,275	3.00	3.00	103
2	73,627	573.07	69,622	8.50	8.50	103
3	75,540	621.78	71,018	11.10	10.00	112
4	78,120	653.98	72,943	9.00	9.00	125
5	77,757	729.10	72,014	5.10	5.10	133
6	75,696	765.23	69,404	0.00	0.00	140
7	74,124	818.40	67,141	7.40	7.40	140
8	72,109	878.88	64,204	10.00	10.00	100
9	70,734	966.85	61,759	10.00	10.00	177
10	67,979	1,063.54	57,749	0.00	0.00	195
11	62,658	1,153.94	51,107	5.00	5.00	213
12	53,632	1,211.64	41,033	3.00	3.00	224
13	42,589	1,257.69	28,682	3.00	3.00	222
14	29,918	1,289.18	15,259	8.50	8.50	240
15	16,554	1,409.61	0	11.10	10.00	200

Variations on these basic concepts would occur by altering mortgage terms or interest rates (both real and buffer) or both. The Department seeks comment specifically on the feasibility of rules that would adopt these or other regulatory constraints on the magnitude of adjustments. The proposed regulation sets forth two alternative kinds of constraints, one requiring the use of a buffer rate, the other imposing an annual adjustment ceiling. However, the Department expressly reserves the right to adopt other constraints or combinations of constraints in its final rule, if warranted in light of the comments received.

VI. Disclosure Requirements

The proposed regulation sets forth explicit disclosure rules that must be followed by a mortgagee. No later than at the time of a loan application, the prospective mortgagor must be advised of the nature of an IM, most particularly that principal balances and monthly payments are subject to annual increases or decreases, the magnitude of which depends upon annual changes in the rate of inflation and the express provisions of the mortgage contract. Among other things, the mortgagee must advise the mortgagor of the use of the CPI–U and its source of publication and availability. Finally, the mortgagee would have to provide the mortgagor with a hypothetical amortization schedule reflecting adjustments based on changes in the CPI–U over the most recent 10-year period on a repetitive basis, using the mortgage contract terms relating to the mortgage obligation, interest rates, mortgage term.

In addition, before the effective date of each annual adjustment (no later than 30 days or sooner than 45 days earlier), the mortgagee would be required to advise the mortgagor of the adjustment to his or her principal balance and monthly payments, and how the adjustments were calculated using the actual CPI–U values.

VII. Remaining Issues

1. *Mortgage Insurance Premiums (MIP):* The Department's regulations now applicable to section 203(b) single-family mortgages which are obligations of the Mutual Mortgage Insurance Fund (MMIF) provide for payment of a one-time insurance premium charge. (See 24 CFR 203.259a.) By notice in the Federal Register, the Department has fixed the one-time MIP rate at 3.8 percent for a 30-year mortgage in which the entire MIP amount is financed.

On the other hand, mortgages which are obligations of the Department's General Insurance Fund, including mortgages for section 234(c) units, currently are subject to periodic MIP payments. The regulation governing MIP for section 234(c) units is set forth at 24 CFR 234.37.

The Department is considering revising its regulations to require that, with respect to all indexed mortgages, insurance premiums must be paid either periodically or on a one-time basis. Comment is invited concerning the appropriateness of either alternative.

Assuming that the Department should adopt a one-time MIP rule for either or both programs, a related question concerns whether this MIP charge should be allowed to be included in the mortgage loan amounts or paid in full at settlement. Inclusion of a one-time MIP in the loan balance would result in a significant compounding effect as the principal balance is periodically adjusted in accord with changes in the CPI–U base index. In effect, the amount of a one-time MIP payment included in the initial loan amount would be continually compounded with each successive annual adjustment to the principal balance. Should HUD attempt to recapture a portion of inflation-driven MIP from the loan balance and return it to the mortgagor? Comment is invited on this question as well.

Section 447 of the 1983 Act amended section 203(c) of the National Housing Act to allow the Department to establish premium charges for IMs without upper or lower percentage limits. Since IMs may entail a greater degree of risk than other kinds of mortgages, based on unforseeable changes in inflation rates, the Department needs to consider the appropriateness of determining a premium charge which is unique to this kind of mortgage instrument.

2. *Mortgagor Qualifications:* With respect to indexed mortgages, the proposed regulations would apply the same standards to govern the relationship of a mortgagor's income to mortgage payments for mortgagors under section 203(b) and section 234(c). Under 24 CFR 203.33 ("relationship of income to mortgage payments") a mortgagor's income is generally deemed adequate if the total prospective housing expense does not exceed 35 percent of his or her income, and if the expense plus other recurring charges do not exceed 50 percent of income. This proposal adopts the broader, albeit nonspecific, standard (i.e., that mortgage payments bear a proper relation to the mortgagor's present and anticipated income and expenses), currently in effect at 24 CFR 234.56. However, the Department is not bound by the current

rules, and is seriously considering formulating specific criteria for indexed mortgages in the final regulation. Comment is invited concerning whether specific qualifying criteria should be established for mortgagors seeking indexed mortgages, and if so, what criteria would be appropriate.

3. *Loan-to-Value Ratio (LTV):* Comment is invited concerning whether the LTV ratios currently in effect in 24 CFR Parts 203 and 234 should be revised for indexed mortgaged loans. Requiring mortgagors to make greater cash down payments (thereby reducing the LTV), may be necessary in order to reduce default risks. In fact, the risk of default is greater where LTV ratios are high, and in the case of an IM the risk is aggravated in the early years due to negative amortization. It is very likely that after further actuarial analysis the Department will require a lower LTV for indexed mortgages—perhaps even below 90 percent.

Any rule change adopted in the final rule concerning LTV ratios will depend upon the nature and number of other constraints imposed on the IM program(s) eligible for insurance. However, based on the Department's preliminary analysis of potential default risks associated with the use of indexed mortgages, default risks may exceed acceptable levels even in instances where a buffer rate is employed to offset the full impact of changes in the CPI–U. Accordingly, the Department, in assessing the need for particular constraints (e.g., use of buffer rates or shortened mortgage terms), will also consider how these constraints act to reduce the potential for defaults. If necessary, LTV ratios applicable to indexed mogrtgages will be reduced in the final rule.

4. *Demonstration Project:* A demonstration that limits the full use of indexed mortgages in HUD's insurance programs is justified because of the novelty and uncertainty as to how IMs will perform. HUD's demonstration will involve the use of IMs in selected single-family programs and may involve limitations in rate increases or maximum mortgage amounts not required by statute. The Department's direct endorsement regulation at 24 CFR 200.163 is applicable to insurance loans for the single-family dwellings included in this program. Comment is invited concerning the nature and scope of the demonstration program that should be implemented by HUD with respect to indexed mortgages. For example, should direct endorsement apply to this program, given its novelty and potential for risk? If so, the Department will need to consider the extent to which the existing certifications in 24 CFR 200.163 require additions or deletions. Should the program be limited geographically (i.e., to fewer than the ten HUD Regions)? Should the number of indexed mortgages be limited, beyond the statutory limitations imposed in section 441(b) of the 1983 Act?

5. *Federal Tax Considerations:* The tax consequences of indexed mortgage payments to a mortgagee and a mortgagor are not readily apparent. For example, will the Treasury Department treat additions to principal resulting from periodic adjustments as interest income or gain for income tax purposes? The Department will seek advice from the Treasury Department with reference to the Federal tax consequences of IMs.

6. *Title and Hazard Insurance:* Comment is also invited on potential problems that may arise with respect to a mortgagor's acquiring title insurance and (adequate) hazard insurance for an IM. The magnitude of this problem will vary depending upon the size of possible increases to an IM principal balance.

7. *Refinancing an Indexed Mortgage:* As previously noted, the maximum insurable loan amounts that would be applicable under this provision govern only the initial mortgage amount insured. In the event that a mortgagor and a mortgagee agree to "convert" (i.e., refinance), an indexed mortgage to a fixed rate, level payment mortgage, the new loan would be eligible for FHA insurance up to but not in excess of the maximum loan limits applicable to a level payment loan.

VIII. Findings

In accordance with 24 CFR 50.20(1), this rulemaking is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule merely proposes to expand the types of mortgages eligible for HUD mortgage insurance to include indexed mortgages. It will, even when final and effectve, impose no involuntary economic benefits or burdens.

This proposed rule was listed in the Department's semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902) as item 62 under Executive Order 12291 and the Regulatory Flexibility Act.

The indexed mortgage insurance program is not listed in the Catalog of Federal Domestic Assistance.

The collection of information requirement contained in this rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirement(s) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

List of Subjects

24 CFR Part 203

Home improvement loans, Loan programs: housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 220

Mortgage insurance.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Low and moderate income housing, Mortgage insurance.

Accordingly, the Department proposes to amend 24 CFR Parts 203, 220, 221, 234, and 235 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. In § 203.43c, paragraph (a) is revised to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.18b, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43b, 203.44, 203.48 and 203.50 of this part shall not apply to mortgages insured under section 203(n) of the National Housing Act.

* * * * *

2. By revising § 203.45(g) to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(g) This section shall not apply to a mortgage that meets the requirements of §§ 203.18 (c), (d), (e) or (f), 203.43, 203.43a, 203.43b, or 203.48.

3. By revising § 203.46(i) to read a follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(i) This section shall not apply to a mortgage that meets the requirements of §§ 203.18 (c), (d), (e) or (f), 203.43, 203.43a, 203.43b, 203.47, 203.48 or 203.50

4. By revising § 203.47(g) to read as follows:

§ 203.47 Eligibility of growing equity mortgages.

* * * * *

(g) This section shall not apply to a mortgage which meets the requirements of §§ 203.43, 203.43a, 203.43b or 203.48.

5. By adding a new § 203.48 (with alternate paragraph (e) for public comment) to read as follows:

§ 203.48 Eligibility of indexed mortgages.

A mortgage containing provisions for varying rates of amortization based upon periodic adjustments of monthly payments and outstanding principal balances corresponding to changes or percentages of changes in a selected price index shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The *price index.* The price index used for determining adjustments to the outstanding principal balance and mortgagor's monthly payments shall be the Consumer Price Index, U.S. City Average, All Items, for All Urban Consumers (CPI–U). The CPI–U is computed on a monthly basis by the U.S. Department of Labor's Bureau of Labor Statistics (BLS). BLS publishes a newsletter each month providing a detailed summary of the prior month's CPI–U.

(b) *Definitions.* For the purpose of this section the following terms shall have the meanings indicated.

(1) "Date of adjustment" means that date, occurring at regular intervals, upon which the mortgage principal balance and mortgagor's monthly payments are adjusted to reflect the annual change or percentage of change in the CPI–U.

(2) "Calendar quarter" means any one of the four quarters of the year which begins on the first day of January, April, July or October.

(3) "Base index month" means the CPI–U month that in each year shall be used as the beginning point in time for calculating changes in the CPI–U over the following twelve month period.

(4) "Real interest rate" means a mortgage rate of interest that constitutes the mortgagee's desired annual rate of return on the mortgage loan, excluding consideration of changes in the CPI–U.

(5) "Buffer rate" means a mortgage interest rate which constitutes an anticipated rate of change in the CPI–U for the mortgage term.

(c) *Amortization provisions.* The mortgage must contain amortization provisions satisfactory to the Secretary, allowing for periodic adjustments to the mortgage principal balance and mortgagor's monthly payments, corresponding to the rate of change or percentage of change in the CPI–U, in accordance with the provisions of this subpart.

(d) *Adjustment periods.* The initial adjustment to the mortgage principal balance and to the mortgagor's monthly payments may not occur sooner than 15 months or later than 18 months from the date upon which the mortgage loan was originated. Thereafter, the date of adjustment to the mortgage principal balance and to the mortgagor's monthly payments must occur on the anniversary date of the initial adjustment. All loans originated within the same calendar quarter of the same year must have uniform adjustment date. For all loans originated within the same calendar quarter of the same year, the last month of the quarter will be the base (CPI–U) index month for the purpose of calculating the initial adjustment. In each successive year, for the purpose of calculating the adjustment, the base index month will be the same month, one year later.

[(e) *Limits on mortgage interest rates and adjustments.* The mortgage interest rate shall be a rate agreed upon by the mortgagee and the mortgagor. This rate must include a (negotiable) real interest rate, and a buffer rate, each of which shall remain fixed throughout the entire mortgage term. Each annual adjustment to the mortgagor's monthly payments and principal balance outstanding on the date of adjustment shall be calculated in accordance with the following formula for determining the adjustment factor, where e represents the actual rate of change in the CPI–U and e^1 represents the expected rate of change expressed as a decimal mark (i.e., the buffer rate):

$$\frac{1+e}{1+e^1} = \text{adjustment factor}]$$

OR

[(e) *Limits on mortgage interest rates and adjustments.* The mortgage shall bear a real interest rate agreed upon by the mortgagee and the mortgagor. Annual adjustments to the mortgage principal balance outstanding on the date of adjustment and monthly payments may not exceed 10 percent.]

(f) *Pre-loan disclosure.* The mortgagee shall explain to the mortgagor, no later than on the date upon which the mortgagee provides the (prospective) mortgagor with a loan application, the nature of the obligation proposed to be undertaken. The mortgagor shall certify that he or she fully understands the obligation. Such mortgagee disclosure must include the following items:

(1) The fact that the mortgage principal balance and monthly payments may change annually based on changes in the CPI–U;

(2) Identification of the CPI–U, its source of publication and availability;

(3) The frequency (i.e., every year) with which adjustments shall be made, and the length of the interval that shall precede the initial adjustment.

(4) An explanation of negative amortization, and how it may occur in connection with the mortgage loan.

(5) A hypothetical amortization schedule, demonstrating the effect on the particular mortgagor's annual principal balance and monthly payments through the mortgage terms, using the CPI values for the most recent 10 full calendar year period on a repetitive basis, and the relevant terms and conditions being offered to the mortgagor.

(g) *Annual disclosure.* At least 30 days and no more than 45 days before any adjustment to the mortgage principal balance and monthly payments may occur, the mortgagee shall notify the mortgagor of the following:

(1) The new monthly payment and adjustment to the principal balance, and

(2) The base and current CPI–U values used to calculate the adjustment.

(h) *Submission of application for insurance.* An application submitted by an approved mortgagee under § 203.10 (submission of application) shall contain

an appended statement indicating whether the mortgagor has owned a home within the three-year period preceding the date of application for mortgage insurance. At any time when statutory aggregate mortgage insurance ceilings or the aggregate limits imposed by section 245(c) of the National Housing Act may require, the Secretary shall give a priority to mortgages executed by mortgagors who have not owned a home during that three-year period.

(i) *Relationship of income to mortgage payments.* A mortgagor shall establish that the periodic payments required in the mortgage submitted for insurance bear a proper relation to his or her present and anticipated income and expenses.

(j) *Maximum Mortgage amount.* The maximum mortgage amount shall not exceed the limits prescribed by §§203.18(a), 203.18(b), 203.18a, 203.18b and 203.29.

(k) *Cross-reference.* Sections 203.21 (level payment amortization provisions), 203.44 (open-end advances), and 203.33 (relationship of income to mortgage payments) shall not apply to this section. This section shall not apply to a mortgage that meets the requirements of §§ 203.18(c) (non-occupant owners), 203.18(d) (outlying area properties), 203.18(e) (disaster victims), 203.43 (miscellaneous type mortgages), 203.43a (mortgages covering housing in certain neighborhoods), 203.43b (mortgages covering housing intended for seasonal occupancy), 203.43c (mortgages involving a dwelling unit in a cooperative housing development), 203.43d (mortgages in certain communities), 203.43e (mortgages covering houses in federally impacted areas) 203.43f (mortgages covering manufactured homes), 203.45 (graduated payment mortgages), 203.46 (modified graduated payment mortgages), 203.47 (growing equity mortgages), and 203.50 (rehabilitation loans).

(l) *Aggregate number of loans insured.* The aggregate number of loans insured under this section and § 234.78 (indexed mortgages), §§—— (adjustable rate mortgages), and §§ —— (shared appreciation mortgages), in any fiscal year may not exceed 10 percent of the aggregate number of mortgages insured by the Secretary under Title II of the National Housing Act, 12 U.S.C. 1707 *et. seq.*

(m) *Insurance authority.* Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 245(c) of the National Housing Act.

6. By adding a new § 203.436a to read as follows:

§ 203.436a Claim procedure—indexed mortgages.

All of the provisions of this subpart are applicable to mortgages insured under the provisions of § 203.48 except that the phrases "unpaid principal balance of the loan" or "principal of the mortgage which was unpaid" as used in this subpart, shall be construed to refer to the outstanding mortgage amount as increased or decreased as a consequence of periodic adjustments to the principal balance based on changes in a price index under a financing plan approved by the Secretary.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

§ 220.1 [Amended]

7. In § 220.1, by inserting in the cross-reference table, between "203.42 Rental properties" and "203.50 Eligibility of rehabilitation loans" the following:

203.48 Eligibility of indexed mortgages.

§ 220.251 [Amended]

8. In § 220.251, by inserting in the cross-reference table, after "203.425 Finality of Determination" the following:

203.436a Claim procedure—indexed mortgages.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE.

§ 221.1 [Amended]

9. In § 220.1, by inserting in the cross-reference table, between "203.46 Eligibility of modified graduated payment mortgages" and "203.50 Eligibility of rehabilitation loans" the following:

203.48 Eligibility of indexed mortgages.

§ 221.251 [Amended]

10. In § 221.251, by inserting in the cross-reference table, after "203.436 Claim procedure—graduated payment mortgages" the following:

203.436a Claim procedure—indexed mortgages.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

11. By revising § 234.75(g) to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(g) This section shall not apply to a mortgage that meets the requirements of §§ 234.27(d), 234.68 or 234.78.

12. By revising § 234.76(i) to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(i) This section shall not apply to a mortgage that meets the requirements of §§ 234.27(d), 234.68, 234.77 and 234.78.

* * * * *

13. By revising § 234.77(g) to read as follows:

§ 234.77 Eligibility of growing equity mortgages.

* * * * *

(g) This section shall not apply to a mortgage that meets the requirements of §§ 234.68 or 234.78.

14. By adding a new § 234.78 (with alternate paragraph (e) for public comment) to read as follows:

§ 234.78 Eligibility of indexed mortgages.

A mortgage containing provisions for varying rates of amortization based upon periodic adjustments of monthly payments and outstanding principal balances corresponding to changes or percentages of changes in a selected price index shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The *price index.* The price index used for determining adjustments to the outstanding principal balance and mortgagor's monthly payments shall be the Consumer Price Index, U.S. City Average, All Items, for All Urban Consumers (CPI–U). The CPI–U is computed on a monthly basis by the U.S. Department of Labor's Bureau of Labor Statistic (BLS). BLS publishes a newsletter each month providing a detailed summary of the prior month's CPI–U.

(b) *Definitions.* For the purpose of this section the following terms shall have the meanings indicated.

(1) "Date of adjustment" means that date, occurring at regular intervals, upon which the mortgage principal balance and mortgagor's monthly payments are adjusted to reflect the annual change or percentage of change in the CPI–U.

(2) "Calendar quarter" means any one of the four quarters of the year which begins on the first day of January, April, July or October.

(3) "Base index month" means the CPI–U month that in each year shall be used as the beginning point in time for calculating the change in the CPI–U over the following twelve month period.

(4) "Real interest rate" means a mortgage rate of interest that constitutes the mortgagee's desired annual rate of

return on the mortgage loan, excluding consideration of CPI–U.

(5) "Buffer rate" means a mortgage interest rate that constitutes an anticipated rate of change in the CPI–U for the mortgage term.

(c) *Amortization provisions.* The mortgage must contain amortization provisions satisfactory to the Secretary, allowing for periodic adjustments to the mortgage principal balance and mortgagor's monthly payments, corresponding to the rate of change or percentage of change in the CPI–U, in accordance with the provisions of this subpart.

(d) *Adjustment periods.* The initial adjustment to the mortgage principal balance and to the mortgagor's monthly payments may not occur sooner than 15 months or later than 18 months from the date upon which the mortgage loan was originated. Thereafter, the date of adjustment to the mortgage principal balance and to the mortgagor's monthly payments must occur on the anniversay date of the initial adjustment. All loans originated within the same calendar quarter of the same year must have a uniform adjustment date. For all loans originated within the same calendar quarter of the same year, the last month of the quarter will be the base (CPI–U) index month for the purpose of calculating the initial adjustment. In each successive year, for the purpose of calculating the adjustment, the base index month will be the same month, one year later.

[(e) *Limits on mortgage interest rates and adjustments.* The mortgage interest rate shall be a rate agreed upon by the mortgagee and the mortgagor. This rate must include a (negotiable) real interest rate, and a buffer rate, each of which shall remain fixed throughout the entire mortgage term. Each annual adjustment to the mortgagor's monthly payments and principal balance outstanding on the date of adjustment shall be calculated in accordance with the following formula for determining the adjustment factor, where e represents the actual rate of change in the CPI–U and e^{1} represents the expected rate of change expressed as a decimal mark (i.e., the buffer rate):

$$\frac{1+e}{1+e^{1}} = \text{adjustment factor}]$$

[(e) *Limits on mortgage interest rates and adjustments.* The mortgage shall bear a real interest rate agreed upon by the mortgagee and the mortgagor. Annual adjustments to the mortgage principal balance outstanding on the date of adjustment and monthly payments may not exceed 10 percent.]

(f) *Pre-loan disclosure.* The mortgagee shall explain fully to the mortgagor, no later than on the date upon which the mortgagee provides the (prospective) mortgagor with a loan application, the nature of the obligation proposed to be undertaken. The mortgagor shall certify that he or she fully understands the obligations. Such mortgagee disclosure must include the following items:

(1) The fact that the mortgage principal balance and monthly payments may change annually based on changes in the CPI–U;

(2) Identification of the CPI–U, its source of publication and availability;

(3) The frequency (i.e., every year) with which adjustments shall be made, and the length of the interval that shall precede the initial adjustment;

(4) An explanation of negative amortization, and how it may occur in connection with the mortgage loan;

(5) A hypothetical amortization schedule, demonstrating the particular mortgagor's annual principal balance and monthly payments through the mortgage term, using the CPI values for the most recent 10 full calendar year period on a repetitive basis, and the relevant terms and conditions being offered to the mortgagor.

(g) *Annual disclosure.* At least 30 days and no more than 45 days before any adjustment to the mortgage principal balance and monthly payments may occur, the mortgagee shall notify the mortgagor of the following:

(1) The new monthly payment and adjustment to the principal balance, and

(2) The base and current CPI–U values used to calculate the adjustment.

(h) *Submission of application for insurance.* An application submitted by an approved mortgagee under § 234.10 (submission of application) shall contain an appended statement indicating whether the mortgagor has owned a home within the three-year period preceding the date of application for mortgage insurance. At any time when statutory aggregate mortgage insurance ceilings or the aggregate limits imposed by section 245(c) of the National Housing Act may require the Secretary shall give a priority to mortgages executed by mortgagors who have not owned a home during that three-year period.

(i) *Maximum mortgage amount.* The maximum mortgage amount shall not exceed the limits prescribed by §§ 234.27(a), 234.27(c) and 234.49.

(j) *Cross-reference.* Sections 234.36 (level payment amortization provisions) and 234.70 (open-end advances) shall not apply to this section. This section shall not apply to a mortgage that meets the requirements of §§ 234.27(d) (nonoccupant mortgagors), 234.68 (mortgages covering housing in certain neighborhoods), 234.69 (mortgages covering houses in federally impacted areas), 234.69a (mortgages for individually owned condominium units for existing multifamily housing demonstration), 234.75 (graduated payment mortgages), 234.76 (modified graduated payment mortgages) and 234.77 (growing equity mortgages).

(k) *Aggregate number of loans insured.* The aggregate number of loans insured under this section and § 203.43 (indexed mortgages), §§ ——) (adjustable rate mortgages), and §§ —— (shared appreciation mortgages), in any fiscal year may not exceed 10 percent of the aggregate number of mortgages insured by the Secretary under Title II of the National Housing Act, 12 U.S.C. 1707 *et seq.*

(l) *Insurance authority.* Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 245(c) of the National Housing Act.

15. By adding a new § 234.259a to read as follows:

§ 234.259a Claim procedure—indexed mortgages.

The provisions of § 203.436a of this part are applicable to mortgages insured under the provisions of § 234.78.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.1 [Amended]

16. In § 235.1, by inserting in the cross-reference table, between "203.47 Eligibility of growing equity mortgages" and "203.50 Eligibility of rehabilitation loans" the following:

203.43 Eligibility of indexed mortgages.

Authority: Sec. 7d, Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 245(c), National Housing Act (12 U.S.C. 1715z–10).

Dated: April 16, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-14553 Filed 6-1-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[LR-228-82]

Corporate Estimated Income Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to corporate estimated income tax requirements.

DATES: The public hearing will be held on Tuesday, June 26, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, June 19, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-228-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 6152, 6164, 6654, and 6655 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Monday, March 26, 1984, page 11186 (49 FR 11186).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than June 19, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-14912 Filed 6-1-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Reopening and Extension of Public Comment Period on Proposed Amendment to the Alabama Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: On January 9, 1984, the Alabama Surface Mining Commission (ASMC) submitted to OSM a proposed program for the training and certification of blasters working in surface coal mining operations. OSM published a notice in the Federal Register on February 6, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 4384). The public comment period ended on March 7, 1984.

A review of Alabama's proposed amendment by OSM identified several concerns relating to persons present during blasting, field experience of blasters, revocation of certification, protection of blasters certificates, and blaster examinations. OSM notified the ASMC about its concerns and on May 3, 1984, the Commission responded by submitting modifications to its proposed amendment. Accordingly, OSM is reopening and extending the comment period of Alabama's January 9, 1984 proposed amendment as modified on May 3, 1984. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendment.

DATE: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. June 19, 1984 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, Homewood, Alabama 35209.

Copies of the Alabama program, the proposed modifications to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of State regulatory authority listed below, during normal business hours Monday through Friday excluding holidays.

Office of Surface Mining, Administrative Record, Room 5124, 1100 L Street NW., Washington, D.C. 20240

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone (205) 254-0890.

SUPPLEMENTARY INFORMATION: The Alabama State program was approved effective May 20, 1982, by notice published in the Federal Register (47 FR 22038). Information pertinent to the general background on the Alabama program, including a detailed explanation of the conditions of approval of the Alabama program, can be found in the May 20, 1982 Federal Register.

By letter dated January 9, 1984, Alabama submitted a proposed amendment to establish a program for the training and certification of blasters working in surface coal mining operations. OSM announced receipt of the amendment and initiated a public comment period on February 6, 1984 (49 FR 4384). The public comment period ended on March 7, 1984. A public hearing scheduled for March 2, 1984 was not held because no one expressed a desire to present testimony.

During the review of Alabama's proposed amendment, OSM identified the following concerns:

1. The Alabama proposed rules do not require that a blaster and at least one other person be present during blasting as do Federal rules 30 CFR 816.61(c)(3) and 817.61(c)(3).

2. Alabama rules are not as detailed as the Federal rule at 30 CFR 850.14(a)(2) which specifies knowledge and

responsibility the candidate must possess to adequately demonstrate field experience in blasting. Alabama rule 880–X–12A–.07[2][c] requires "creditable blasting experience" but does not define what this includes.

3. Alabama rule 880–X–12A–.07(7) does not list specific reasons why a blaster certification may be revoked or suspended, or shall be revoked or suspended upon a finding of willfal conduct, as listed in 30 CFR 850.15(b)(1).

4. Alabama's rules do not contain a requirement that the blaster surrender a revoked certificate, nor do they contain a requirement that the certified blaster take every reasonable precaution to protect the certificate from loss, theft or unauthorized duplicaton. These requirements appear in Federal rules 30 CFR 850.15(b)(3) and 850.15(d), respectively.

5. Alabama's rule 880–X–12A–.07(1) allows individuals certified before January 1, 1982 to be recertified without examination if certain criteria are met. Federal rule 30 CFR 850.14 requires a written examination for all blaster certifications and does not provide an exemption from the examination.

OSM notified Alabama about these concerns by letter dated April 9, 1984, and Alabama responded by letter date May 3, 1984, by submitting a modification to its January 9, 1984 amendment. The modification is intended to address OSM's concerns and consists of a set of draft proposed rules and a policy statement. The full text of the proposed program amendment and the subsequent modifications is available for review at the locatons listed above under **ADDRESSES**. Accordingly, the Director, OSM, is now seeking public comments on the adequacy of Alabama's January 9, 1984 amendment in light of the State's May 3, 1984 modifications. The public comment period is hereby extended to [insert: 15 days from date of publication]. All comments should be submitted to the location shown above under **ADDRESSES** in order to be considered by the Director in his decision on the program amendment.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

Dated: May 22, 1984.

Carl C. Close;

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 84–14839 Filed 6–1–84; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 84–43]

Marine Event; Lake Havasu Water Ski Show

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule will establish Special Local Regulations for a series of water ski shows at London Bridge Channel, Lake Havasu City, Arizona. This event has held last year as the "London Bridge Days Water Ski Show", and regulations were published in the Federal Register on 29 September 1983. The sponsor plans to continue this event ("Lake Havasu Water Ski Show") as a continuing series during the year. These regulations are needed to provide for the safety of life and property on navigable waters during the periods set forth.

DATES: Comments must be received on or before July 19, 1984.

ADDRESSES: Comments should be mailed or can be hand-delivered to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Blvd., Union Bank Bldg. Suite 901, Long Beach, CA 90822. The comments will be available for inspection and copying during normal office hours (7:30 a.m. to 3:30 p.m., Monday through Friday, except holidays).

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Commander (bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice, CGD11 84–43, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Chief, Boating Affairs Branch, Eleventh Coast Guard District, Project Officer, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

Lake Havasu Water Ski Club "Lake Havasu Water Ski Shows" will be conducted on the London Bridge Channel beginning on 2 June 1984. Due to time constraints involved, a final rule has been issued for safety zones which will be in effect on June 2, 16, 30 and July 14. All of the events will have 35 tournament ski boats that could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Order 2100.5. Its economic impact is expected to be minimal since the regulated area will be open periodically for the passage of commercial and recreational vessels. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not be a major rule under the terms of that order.

List Of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35–11–84–43 Lake Havasu Water Ski Show, Lake Havasu, Arizona

(a) *Regulated Area.* That portion of the London Bridge Channel, Lake Havasu City, Arizona commencing approximately 200 yards north of the London Bridge, thence southerly along the channel to approximately 200 yards south of the London Bridge. Event participants will be transiting under the center span of the bridge.

(b) *Effective Date.* The regulated area will be closed intermittently to all vessel traffic from 6:00 p.m. to 7:30 p.m. on the following dates:

28 July 1984
11 and 25 August 1984
8 September 1984

(c) *Special Local Regulations.* (1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by U.S. Coast Guard operated and employed small craft, law enforcement agencies and/or the sponsor's vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect at the end of each period set forth.

(46 U.S.C. 454; 49 U.S.C. 108; 49 U.S.C. 1655(b)(1); 49 CFR 1.45(b); 33 CFR 100.35)

Dated: May 17, 1984.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84-14841 Filed 6-1-84; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD3 84-30]

Regatta; USAF "Thunderbirds" Air Show, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: Special Local Regulations are being proposed for the USAF "Thunderbirds" Air Show being sponsored by the New Jersey Offshore Powerboat Racing Association of Toms River, New Jersey to be held on July 17, 1984 between the hours of 1:00 p.m. and 4:00 p.m. The Coast Guard is considering the issuance of this regulation to provide for the safety of participants and spectators on navigable waters during the event.

DATE: Comments must be received on or before July 5, 1984.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments and other materials referenced in this notice will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG D. R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 84-30) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The comment period for this proposed rulemaking is less that the normal 45 days because of the time constraints involved. Due to the shortened comment period, verbal comment submitted by telephone are acceptable.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG D. R. Cilley, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Officer.

Discussion of Proposed Regulations

The July 17th USAF "Thunderbirds" Air Show is sponsored by the New Jersey Offshore Powerboat Racing Association. The U.S. Air Force Jet Aerobatic Team "Thunderbirds" will put on a demonstration over the waters off Point Pleasant Beach, N.J. The Federal Aviation Administration (FAA) requires that all vessels be kept out of the area under the flight line (show area). The Coast Guard anticipates a large spectator fleet for this event. The show center will be 161 degrees true, 730 yards from the South Manasquan Inlet Jetty Light, off of Point Pleasant Beach. In order to provide for the safety of life and property, the Coast Guard intends to close the show area to all traffic during the "Thunderbirds" Air Show.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should easily compensate area merchants for the slight inconvenience of having navigation restricted.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations by adding a temporary § 100.35-307 to read as follows:

§ 100.35-307 USAF "Thunderbirds" Air Show, New Jersey.

(a) *Regulated Area:* Atlantic Ocean, off Point Pleasant Beach, N.J. from Spring Lake, N.J. at latitude 40°08.5' N. to Mantoloking, N.J. at latitude 40°02' N., extending from the beach to ½ nautical mile offshore, including Manasquan Inlet.

(b) *Effective Period:* This regulation will be effective from 1:00 p.m. to 4:00 p.m. on July 17, 1984.

(c) *Special Local Regulations:*

(1) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(2) The regulated area will be closed to all vessel traffic during the effective period. No spectator shall enter or remain in the regulated area when it is closed unless authorized by the sponsor or the Coast Guard Patrol Commander.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform

vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

(33 U.S.C. 1233; 49 U.S.C. 108; 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: May 25, 1984.

C. M. Holland,

Captain, U.S. Coast Guard, by direction of Commander, Third Coast Guard District.

[FR Doc. 84-14840 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD12 84-03]

Special Local Regulations; Sacramento Water Festival

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish special local regulations for the annual Sacramento Water Festival on the Sacramento River. The purpose is to control vessel traffic in designated areas and within the vicinity of the Water Festival. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before June 20, 1984.

ADDRESSES: Comments should be mailed to Commander (bt), Twelfth Coast Guard District, Government Island, Alameda, CA 94501. The comments will be available for inspection and copying at the Boating Technical Branch, Twelfth Coast Guard District, Government Island, Alameda, CA, Building 50. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LT Bob Olsen, c/o Commander (bt), Twelfth Coast Guard District, Government Island, Alameda, California 94501, (415) 437-3309.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD12 84-03) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The short comment period is necessary to provide sufficent time for publication of the Final Rule before July 7, 1984.

Drafting Information

The drafters of this notice are LT Bob Olsen, Chief Boating Technical Branch, Twelfth Coast Guard District and LT Charles Amen, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulations

The annual Sacramento Water Festival sponsored by the Sacramento Water Festival Association is traditionally scheduled for the first Saturday and the following Sunday in July. The years event will be held on 7 and 8 July 1984. This event consists of high speed powerboat races over a closed course with Formula I powerboats 18 feet in length competing on an oval closed course plus raft races, kayak races, jet ski races, water ski exhibitions, a fire works display, and other activities that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

By the authority contained in Title 33 U.S.C. 1233, as implemented by Title 33, Part 100 United States Code of Federal Regulations, a special local regulation controlling navigation on the waters described is promulgated. By the same authority, the waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulation and cite persons and vessels in violation.

Because of the annual nature of this event, the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, United States Code of Federal Regulations and thereafter provide the public with full and adequate notice of the annual parade by publication in the Local Notice to Mariners.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since it involves negligible cost and will not have significant impact on recreational vessels, commercial vessels or other marine interests. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flaxibility Act [5 U.S.C. 605(b)], that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entites. Also, the regulation has been reviewed under the provisions of Executive Order 12291 of February 17, 1981, on Federal Regulation and had been determined not be a major rule under the terms of that order. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding § 100.1202 to read as follows:

§ 100.1202 Sacramento River—Sacramento Water Festival.

The Sacramento Water Festival Association, Sacramento, California sponsors the Sacramento Water Festival annually on the first Saturday and the following Sunday of July. This event will consist of high speed powerboat races over a closed course with 18 foot Formula I powerboats competing, plus raft races, kayak races, jet ski races, water ski exhibitions, fire works display and other activities.

(a) *Effective Dates:* This section is effective from 0900 to 1700 PDT, 7 and 8 July 1984 and thereafter annually on the first Saturday and the following Sunday in July as published in the Local Notice to Mariners.

(b) *Applicable Areas:* The following areas are designated "Regulated Areas" during the Sacramento Water Festival:

(1) *Special Events Area:* That portion of the Sacramento River East of the Sacramento County/Yolo County line

from 200 yards North of the Capitol Avenue Tower Bridge South to 200 yards South of the Pioneer Memorial Bridge, a distance of approximately 1.00 statute mile, will be closed to all navigation from 0900 to 1700 daily.

(2) *Formula I Power Boat Race Course Area:* That portion of the Sacramento River from 200 yards North of the Capitol Avenue Tower Bridge South to 200 yards South of the Pioneer Memorial Bridge, a distance of approximately 1.00 statute mile, will be closed to navigation during the Formula I power trials and races as follows:

On Saturday:

9:30 am to 11:30 am P.d.t.

12:00 noon to 2:00 pm P.d.t.

2:30 pm to 4:30 pm P.d.t.

On Sunday:

12:00 noon to 2:00 pm P.d.t.

2:30 pm to 4:30 pm P.d.t.

(c) *Regulations:* (1) All vessels not officially involved with the Sacramento Water Festival will remain outside of the regulated areas during periods of closure.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) All vessels not officially involved with the Sacramento Water Festival shall proceed directly through the Formula I Power Boat Race Course area when it is open to navigation in a safe and prudent manner staying to the West of the line of buoys marking the Special Events Area.

(4) All vessels in the vicinity of the regulated areas shall comply with the instructions of the U.S. Coast Guard or local enforcement patrol personnel.

(33 U.S.C. 1233; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: May 24, 1984.

W. F. Merlin,

Captain, U.S. Coast Guard, Acting Commander, Twelfth Coast Guard District.

[FR Doc. 84-14847 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-228-P]

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1984

Correction

In FR Doc. 84-11550 beginning on page 20616 in the issue of Tuesday, May 15, 1984, make the following corrections.

1. On page 20621, first column, Table I, under MSA (NECMA) Location, the "Nonlabor portion" (fourth column) for Home Health Aide now reading "8.24" should read "8.45".

2. On page 20622, second column, Table IIIA., the Wage index for Lawton, OK now reading "[1].9930" should read "[1].9330"; third column, the wage index for Richmond-Petersburg, VA now reading "1.9353" should read ".9353".

BILLING CODE 1505-01-M

42 CFR Parts 432 and 433

Medicaid Program; Third Party Liability for Medical Assistance; FFP Rates for Skilled Professional Medical Personnel and Supporting Staff; and Sources of State Share of Financial Participation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rules.

SUMMARY: These proposed regulations would—

(1) Broaden the scope of services for which a State must collect from third parties the cost of medical assistance furnished to Medicaid recipients, remove the specific requirements for the terms of cooperative agreements for third party collections, and revise the methods of paying claims involving third party liability;

(2) Clarify criteria used in determining whether skilled professional medical personnel and supporting staff involved in the administration of the Medicaid program qualify for 75 percent Federal matching; and

(3) Clarify policy to permit public and private donations to be used as a State's share of financial participation in the entire Medicaid program, instead of only for training expenditures.

The proposed amendments would clarify policy and reduce program expenditures.

DATES: To insure consideration, comments should be submitted by July 5, 1984.

ADDRESSES: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attn.: BPO-500-P, P.O. Box 26676, Baltimore, Md 21207.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to File Code BPO-500-P. Comments will be available for public inspection beginning approximately two weeks after publication of this document in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

Please address a copy of comments on information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer, HCFA.

FOR FURTHER INFORMATION CONTACT: Third Party Liability—Jane Herlocker (301) 597-0456, Rate of FFP—David McNally (301) 597-1398, Sources of State Share of Financial Participation—Sue Knefly (301) 597-2953.

SUPPLEMENTARY INFORMATION:

General

In response to the President's Executive Order 12291 directing a reduction in Federal regulation burdens, we are seeking ways to revise our regulations to reduce the burden of documentation, minimize any unnecessary procedural requirements, and increase efficiency in administering the Medicaid program. This regulations reform effort has involved obtaining the advice and suggestions of professional organizations and associations, consumer groups, providers, State agencies, and contractors.

As a result of part of this regulations review effort, we are proposing in this document to make several changes in the Medicaid regulations regarding (1) third party liability, to reduce the cost of recovering medical assistance furnished to medicaid recipients, (2) Federal financial participation (FFP) in the cost of compensation and training for skilled professional medical personnel and supporting staff, and (3) the sources of the State's share of financial participation. These changes are a combination of steps to remove unnecessary regulatory requirements and to include provisions that will improve the administration of the Medicaid program.

Third Party Liability

General Background

Section 1902(a)(25) of the Social Security Act requires that State or local Medicaid agencies take all reasonable measures to ascertain the legal liability of third parties to pay for care and services furnished to Medicaid recipients. This section requires the

agency to seek reimbursement from a third party to the extent that the party is legally liable for services "arising out of an injury, disease, or disabiltiy." The statute mandates collection in these situations but does not preclude collections of expenditures for other services that are furnished to recipients under a State's Medicaid plan, e.g. prenatal care, well-baby visits, routine physicals, etc. However, the limited definitions of "private insurer" and "third party" in existing regulations under 42 CFR 433.136 have the effect of restriciting collections to expenditures for services relating to the diagnosis or treatment of an injury, disease, or disability. A more general definition of medical assistance services would allow collection of expenses for all medical services provided to Medicaid recipients.

Section 11 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142) amended title XIX of the Social Security Act by adding a new section 1912 to facilitate collection efforts. Under Section 1912, the Medicaid agency may—

- Require individuals, as a condition of eligibility for medical assistance, to assign to the State their rights to any medical support or other payments for medical care, and to cooperate with the State in establishing paternity and obtaining third party payments; and
- Enter into cooperative arrangements with State Child Support Enforcement (title IV-D) agencies and other appropriate agencies, courts, and law enforcement officials to assist in making collections.

The anti-fraud and abuse amendments also added section 1903(o) to prohibit Federal matching of State Medicaid payments when a private insurer would have been liable to pay for the care except that the insurance contract limits or excludes liability when the individual is eligible for medicaid. This amendment used the broader term "expenditures for medical assistance," instead of restricting the requirement to services for the diagnosis or treatment of an injury, disease, or disability. We believe the broader term more accurately reflects current congressional intent and fully supports the proposed revision of the definitions discussed below.

Proposed Changes

1. *Broader definitions.* These proposed regulations would broaden the definitions in § 433.136 of "third party" and "private insurer" for the reasons discussed above. The revision would replace the phrase "injury, disease, or disability" in these definitions with a broader phrase that will require States to collect from third parties for the cost of any medical assistance furnished to a recipient under the approved State plan.

2. *Payment of claims involving third party liability.* Current regulations (§ 433.139) provide States with two methods of paying claims that involve third party liability. Under the first method, if the amount of third party liability is established, the agency pays only to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party liability. The second method permits the agency to pay the total amount allowed under the agency's payment schedule, and then seek reimbursement from liable third parties. States have flexibility to use either payment method under any circumstance.

Program experience has indicated that, when third party liability is known or there is a reasonable expectation, based on the nature of the claim and type of insurance, that third party payment on a claim will be made, it is more cost effective for the State to pay the claim only to the extent that the agency's payment exceeds the amount of the third party liability. Areas of potential savings from the use of a system of paying claims only to the extent that the agency's payment exceeds the amount of third party payment (sometimes referred to as a "cost avoidance" system) include:

- Administrative savings from personnel and other resources that are needed to administer the filing of claims with third party payers and resulting receivable system;
- Program savings in interest loss because Medicaid program dollars are not outstanding with the providers before the third party payment is received;
- Administrative savings from claim processing costs for claims that providers submit directly to the third party rather than to Medicaid;
- Program savings from small dollar claims that might not be recovered due to their minimal individual amounts; and
- Program savings because third party payers are more likely to reimburse claims from providers of service rather than from Medicaid because assignment of rights problems are diminished.

Therefore, we propose to require State agencies to use this method of payment in circumstances in which the agency has established the probable existence of third party liability at the time the claim is filed. (State agency procedures for determining the likelihood of third party liability and subsequent payment may take into account the type of medical expenses and type of insurance involved on a particular claim.) The alternative method of paying the entire claim and then seeking reimbursement from any liable third party would be used only when the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed. While we recognize that there are approximately 14 State agencies currently making full payment with subsequent recovery for claims involving known third party liability, we believe that the increased cost savings in administering the proposed provision for partial claims payment outweigh the benefit of permitting the option of full payment with subsequent recovery in all circumstances.

We also propose to delete the prescribed 30-day time limit for filing claims to recover from liable third parties. We believe this requirement is unnecessarily restrictive because it is not consistent with generally accepted insurance practices. The deletion would give States more flexibility in determining when to seek recovery.

3. *Cooperative agreements for third party collections.* Section 433.152 contains detailed requirements for the terms of all cooperative agreements between the State Medicaid agency and State child support enforcement agencies, courts, law enforcement officials, and other appropriate agencies for collecting third party payments. We believe that these requirements are too prescriptive and that the terms of individual agreements should be left to the discretion of each State agency. Agencies may wish to vary slightly the terms of the agreements to account for individual circumstances, and we believe they should have that right. The removal of these detailed requirements under § 433.152 does not change in any way the specific requirements of the Office of Child Support Enforcement under 45 CFR Part 306 governing cooperative agreements between State child support enforcement agencies and State Medicaid agencies.

4. *Assignment of rights to medical care support or other third party payments—State plan option.* Section 433.145 allows a State to require an

applicant or recipient to assign his rights to medical support or other third party payments to the State, as a condition of Medicaid eligibility. (Medical support is the legal obligation, established under a court order or an administrative procedure under State law, of a spouse or absent parent to provide for medical expenses of a Medicaid recipient. This obligation is usually met through purchase of health insurance rather than through direct payment of medical expenses.) The duration of the assignment is not specified in the regulations. We propose to revise § 433.145 to clarify the term of the assignment by stating that it will be effective only for third party payments for Medicaid services furnished while the recipient is eligible for Medicaid.

5. *Restoration of rights to medical care support.* We propose to delete § 433.149, which specifies that the agency must restore, to an individual who has assigned medical care support to Medicaid, his future rights to that support after eligibility for Medicaid ends. Since the assignment of rights is not effective for payments for services furnished after Medicaid eligibility ends as stated in the proposed revision of § 433.145, there is no need to cancel the assignment when eligibility is terminated. We emphasize that the proposed rules on third party liability should have no impact on Medicaid recipients and little impact on Medicaid providers. Medicaid recipients are eligible for the full range of medical services whether or not they have insurance. These changes to third party liability rules do not make recipients any more liable to pay for services furnished under a State plan than they have been in the past. There is no significant impact on providers of services. The proposed revised claims payment system will require providers to file claims with third party payers, but this system has been proved workable in the States that now use it. Because only 10 to 15 percent of all Medicaid recipients have health insurance, we believe that providers can accommodate the new claims filing requirements with minimal disruption of billing procedures and no reduction in services furnished to Medicaid recipients.

Rates of Federal Financial Participation (FFP) for Compensation and Training of Skilled Professional Medical Personnel

General Background

Section 1903(a) of the Social Security Act provides for variable Federal matching rates to States for administrative functions under Medicaid. The majority of activities that are necessary for the proper and efficient operation of a State Medicaid plan, including compensation and training for most of the agency's staff, are financed at the FFP rate of 50 percent. However, certain specific costs, such as compensation and training of skilled professional medical personnel and staff directly supporting these personnel, administration of family planning services, and certain functions related to the Medicaid Management Information System (MMIS) are financed at higher FFP. Section 1903(a)(2) of the Act provides for Federal matching at 75 percent for compensation and training of skilled professional medical personnel and their supporting staff. It also provides for 75 percent FFP for skilled professional medical staff of other public agencies with which the Medicaid agency contracts for administration of the medical phases of the Medicaid program.

The intent of these provisions is to encourge State agencies to employ personnel who have the professional medical expertise necessary to develop and administer Medicaid programs that are medically sound as well as administratively efficient. Professional medical knowledge is needed to shape the medical aspects of the program, including the determination of which medical services should be included in a well-balanced medical benefit program, coordination of available medical resources, and establishment of working relationships with the professional medical community. Although the Medicaid agency uses skilled professional *Medicaid* personnel in various capacities, not all of them are skilled professional *medical* personnel whose costs qualify for 75 percent Federal matching.

Over the years, there has been diversity in interpreting and applying the criteria used to determine what types of personnel and job functions qualify for 75 percent FFP as skilled professional medical personnel and supporting staff. This has resulted, in some cases, in different matching rates being paid to States for the same types of staff.

The intent of the law is to provide increased FFP for *medical* staff, not nonmedical staff. This is evidenced in the Senate Finance Committee report that accompanied the 1965 Social Security Amendments (Report of the Committee on Finance to Accompany H.R. 6675, 89th Cong., 1st Sess., S. Rept. No. 404, Pt. I, June 30, 1965, p. 83). The term "skilled professional medical personnel" is not meant to include nonmedical health professionals, such as public administrators, medical budget directors or analysts, lobbyists, or senior managers or administrators of public assistance or Medicaid programs. We recognize that it is necessary to have a variety of nonmedical health professionals and that these personnel may possess an equivalent level of education, work experience, and certification as those in the medical care field. However, the law does not provide for 75 percent Federal matching for these personnel.

"Supporting staff" is defined in the Senate report as "clerical staff." We have interpreted clerical staff to mean secretarial and stenographic personnel that provide direct support to the skilled professional medical personnel. The costs of other subprofessional staff not performing clerical functions are not eligible for 75 percent FFP as "supporting staff."

The proposed changes in FFP limitations addressed in this document do not apply to matching rates for State personnel who are involved in the survey and certification of facilities participating in Medicaid. The FFP matching rates for these survey personnel will be addressed in a separate notice of proposed rulemaking.

Proposed Changes

We propose to revise the regulations relating to 75 percent FFP for skilled professional medical personnel and supporting staff, other than State personnel involved in the survey and certification of Medicaid facilities, to clarify what personnel are eligible for the higher matching rate. We would clarify the definitions of "skilled professional medical personnel" and "supporting staff". "Skilled professional medical personnel" would include include only professionals in the field of medical care. "Supporting staff" would include only those clerical job responsibilities that directly support skilled professional medical personnel (§ 432.2).

We also propose to incorporate in the regulations under § 432.50 the criteria specified below to clarify further which costs for skilled professional medical personnel and supporting staff qualify for 75 percent FFP. All applicable criteria must be satisfied to establish whether the personnel and supporting staff qualify for increased FFP.

1. *Costs must be for activities directly related to the administration of the title XIX program.* FFP at 75 percent is available only for the costs of compensation, travel, and training of

skilled professional medical personnel and their supporting staff who are involved in activities that are necessary for the proper and efficient *administration* of the Medicaid State State plan. Expenditures for the actual furnishing of medical services by skilled professional medical personnel do not qualify for Federal matching at 75 percent.

2. *Skilled professional medical personnel must have professional education and training in a medical field.* Skilled professional medical personnel would be required to have education and training at a professional level in the field of medical care or appropriate medical practice.

The Social Security Amendments of 1965 which created the Medicare and Medicaid programs did not define "professional medicare personnel." However, the Senate Finance Committee report which accompanied the legislation, cited earlier, states that the "staff will include physicians, medical administrators, medical social work personnel, and other specialized personnel necessary to assure an adequate number of persons to do a quality job. * * *".

All examples of skilled professional medical personnel given in the Congressional Committee report and in existing regulations have one element in common: *all indicate that these staff have education and training at a professional level in the field of medical care or appropriate medical practice.*

"Education and training at a professional level" means the equivalent of the completion of a program leading to an academic degree in a medically-related profession. This may be demonstrated by possession of a medical license or certificate issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the administration, direction, or implementation of the Medicaid program would not be considered the equivalent of professional training in a field of medical care.

3. *Professional medical expertise must be necessary to fulfill the responsibilities of the skilled professional medical personnel's position.* The intent of Section 1903(a)(2) of the Act is to ensure the integrity of the many diverse medical aspects of the Medicaid program by providing an incentive to State agencies to employ skilled professional medical personnel with respect to those medically-related program activities. The law did not intend to provide 75 percent FFP merely to any staff person who has qualifying medical education and training and experience, without regard to his actual responsibilities. Rather, the *function performed* by the skilled professional medical personnel must be one that *requires* that level of medical expertise in order to be peformed effectively. Consequently, 75 percent FFP is only available for those *positions* that require professional medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

Examples of functions that would meet these criteria include, but are not limited to, the following:

- Acting as a liaison on the medical aspects of the program with providers of services and other agencies that provide medical care.
- Furnishing expert medical opinions for the adjudication of administrative appeals.
- Reviewing complex physician billings.
- Providing technical assistance and drug abuse screening on pharmacy billings.
- Participating in medical review or independent professional review team activities.
- Assessing the necessity and adequacy of medical care and services provided, as in utilization review.

When the function of skilled professional medical personnel is the application of administrative practices and procedures unrelated to the specialized field of medical care and requires no skilled medical training, the costs are matched at 50 percent FFP. For example, the costs of a physician in charge of an accounting operation are only eligible for FFP at 50 percent.

4. *An employer-employee relationship must exist between the State agency and the skilled professional medical personnel and supporting staff.* As evidenced by the statutory language and legislative history of section 1903(a)(2), the 75 percent FFP rate is applicable to costs of specific personnel and staff that are employed by the Medicaid agency. Therefore, in most cases FFP at 75 percent is not authorized for contracts with private organizations or independent contractors. However, there are instances in which the agency contracts for personal services as a common method of securing the services of skilled professional medical personnel without going through the formalities of merit hiring. It is not unusual for these contracts to contain a statement that no employer-employee relationship exists or will exist between the parties. However, it is fundamental to contract law that the substance of a transaction, rather than its form, is controlling, and an employer-employee relationship may be found to exist between contractor personnel and the State agency despite the terms of the contract. The denial clause has no effect if an examination of the actual duties performed, responsibilities assumed, and the manner of performing the duties and responsibilities that have been established indicates the existence of an employer-employee relationship. It is the substantive relationship between the parties to the employment contract under State law that is critical in determining, on a case-by-case basis, whether an employer-employee relationship exists, not the mere existence of a contract.

The provisions of the proposed regulations are not intended to supersede these contracts. Rather, the finding of an employment relationship for purposes of 75 percent FFP will be based on the facts and circumstances bearing upon the case. While specific contract provisions may be of great relevance bearing upon the existence of an employer-employee relationship, the determination may also appropriately include an analysis of the relationship that may not be specified in the terms of the written contract itself.

5. *The supporting staff must provide clerical services that are necessary for carrying out the professional medical responsibilities and functions of the skilled professional medical personnel.* As stated earlier, "supporting staff," is defined in the congressional report as "clerical staff." "Clerical staff" is interpreted to mean secretarial and stenographic personnel that provide direct support to the skilled professional medical personnel. It does not include the costs of other subprofessional staff not performing clerical functions.

Eligibility for increased FFP for supporting staff is based on the concept in the law of "direct support." *"Direct support" means the provision of clerical services which are necessary to the completion of the professional medical responsibilities and functions of the skilled professional medical personnel.* There must be documentation showing that the clerical services provided by the supporting staff are directly related, and necessary, to the execution of the skilled professional medical personnel's responsibilities. In order for the clerical services to be directly related to the skilled professional medical personnel's responsibilities, the skilled professional medical personnel must be immediately responsible for the work performed by the clerical staff. The skilled

professional medical personnel must directly supervise either the supporting staff or the performance of the supporting staff's work.

6. *Skilled professional medical personnel and supporting staff of other public agencies must meet all the applicable criteria included in items 1 through 5 and this must be verified in a written agreement with the Medicaid agency.* Skilled professional medical personnel and supporting staff employed by public agencies other than the Medicaid agency (or, in the case of separate program divisions housed within an "umbrella" agency, employed in other than the Medicaid component) often assist in the administration of the Medicaid program. FFP at 75 percent is available for the costs of compensation, travel, and training of these personnel and staff if there is a written interagency or intraagency agreement that specifically demonstrates that the non-Medicaid staff and their functions meet all the applicable criteria, and that they assist the Medicaid agency, or the Medicaid agency's skilled professional medical personnel, in activities that are directly related to the administration of the Medicaid program. "Directly related" means assuming a position in the chain of authority from the State Administrator of the Medicaid program, and performing duties for which the State Administrator is accountable. The agreement must outline the activities the other public agency will perform to assist in the administration of the Medicaid program.

7. *FFP must be prorated for split functions of skilled professional medical personnel and supporting staff.* If the skilled professional medical personnel or supporting staff time is split among different functions, some of which do not qualify for 75 percent FFP, the skilled professional medical personnel and supporting staff costs must be allocated among the various functions. The allocation must be based on either the actual percentages of time spent within each function or another methodology that is approved by HCFA.

We propose to apply these criteria prospectively beginning 90 days after publication of the final regulations.

Sources of State's Share of Financial Participation

General Background

Section 1902(a)(2) of the Social Security Act requires States to share in the cost of medical assistance expenditures, but permits both State and local governments to participate in the financing of the non-Federal portion of the Medicaid program. This section specifies the percentage of the State's share of these costs and requires that this share be sufficient to assure that lack of adequate funds from local sources will not prevent the furnishing of services equal in amount, duration, scope, and quality throughout the State.

As State fiscal budgets have become more austere, State legislatures have looked increasingly to alternative sources for funding a larger portion of the Medicaid program. Questions have arisen regarding the use of public and private donations as sources of the State's share of financial participation.

The definition of "State funds" generally used by States means funds over which the State legislature has an unrestricted power of appropriations. Therefore, in order for donations from public or private sources to be considered as the State's share of financial participation in Medicaid, we issued regulations (§ 432.60) for determining when donations ceased being local or private funds and became State funds for purposes of a Federal program. In developing the regulations, we wanted to ensure that the Medicaid agency maintained administrative control and unrestricted power of allocation of all donated funds. Section 432.60 outlines the conditions under which public and private funds may be considered as the State's share of Medicaid expenditures.

At the time the regulations were formulated, there was some concern about potential for abuse. We wanted to prevent donations that could be made conditional on some benefit to the donor. For example, we were particularly concerned that a "kick-back" situation could result from private donations made by a proprietary organization, such as a long-term care facility or data processing company, in return for Medicaid business. Therefore, the regulations permitted use of public and private funds as the sources of the State's share of financial participation only for one category of costs, that is, training expenditures.

Experience has shown no abuse of public and private funds through conditional donations or kick-backs. Generally, donated funds are commingled with all other Medicaid funds under the State agency's administrative control. By limiting the use of donations as State funds only to expenditures for training purposes, the regulations have placed an administrative burden on the States in terms of cost allocation. Furthermore, if a State were to receive donations in an amount greater than its total training expenditures, the excess funds could not be used as the State share of other Medicaid expenditures.

Proposed Changes

We propose to revise the requirements in § 432.60 so that public and private donations can be used as a State's share of financial participation in the entire Medicaid program rather than just training expenditures. The revision would permit States more flexibility in administering their program and reduce the recordkeeping necessary to relate donated funds exclusively to training expenditures. Section 432.60 is in Part 432—State Personnel Administration. Because the revised requirements would no longer be limited to training costs, we would redesignate them as § 433.45 of Part 433—Fiscal Administration.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that will have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or meet other thresholds specified in section 1(b) of the Order. We have determined that these proposed regulations, singularly or jointly, do not meet these criteria and a regulatory impact analysis is not required.

The proposed revision on third party liability will require States to establish liability for all medical assistance furnished under the State plan instead of only for services arising out of injury, disease, or disability. Services such as prenatal care, well-baby visits, and routine physicals would now be added under the proposed revision. We anticipate negligible cost savings to the Medicaid program through this proposed revision, because so few Medicaid recipients have insurance coverage for these services with third party liability provisions.

We also expect a program cost savings, on a Federal level, attributable to the changes in the definition of skilled professional medical personnel and supporting staff. Implementation of these changes would reduce the allowability of most States skilled professional medical personnel claims. We estimate a $5 million program cost savings in the first full fiscal year that these regulations are effective. These savings would be generated by continued disallowance of State claims and an expected reduction in the

number of personnel and staff qualified for 75 percent Federal matching.

We anticipate an increase in savings in future fiscal years if States restructure their staffing patterns to accommodate the changes and no longer claim these staff at 75 percent FFP. However, we cannot provide savings estimates because we do not know what specific decisions States will make.

There is little cost impact associated with the proposed change in sources of funding.

Regulatory Flexibility Act of 1980 (Pub. L. 96-354)

The Regulatory Flexibility Act requires us to prepare and publish a regulatory flexibility analysis (RFA) for any regulation that will have a significant impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000. The purpose of the analysis would be to anticipate the impact and to seek alternatives that would have a less significant effect.

We do not expect the proposed changes to affect a substantial number of small entities. Entities that are impacted primarily by the proposed revisions are expected to be large major health insurors and State Medicaid agencies, which are not considered small entities. As mentioned above in the discussion of Executive Order 12291, the proposed changes in skilled professional medical personnel would result in a shift back to State of a portion of administration costs that was erroneously paid with Federal funds.

Therefore, the Secretary certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980 (Pub. L. 96-511)

This proposed rule does not contain information collection requirements under the Paperwork Reduction Act. Therefore, we have not submitted a copy of this proposed rule to the Exeuctive Office of Management and Budget (OMB) for its review under the requirements of the Paperwork Reduction Act.

Response to Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 432

Grant-in-Aid program—health, Medicaid, Subprofessionals, Training programs, Volunteers.

42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Grant-in-Aid program—health, Mechanized claims processing and information retrieval systems, Medicaid, State fiscal administration, Third party liability.

42 CFR Chapter IV is amended as set forth below:

A. Part 432 is amended as follows:

1. The table of contents for Subpart C is amended by adding a new § 432.45 and removing § 432.60 to read as follows:

PART 432—STATE PERSONNEL ADMINISTRATION

Subpart C—Staffing and Training Expenditures

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 432.2 is amended by adding an introductory phrase and revising the definitions of "skilled professional medical personnel", "staff of other public agencies", and supporting staff" to read as follows:

§ 432.2 Definitions.

As used in this part—

* * * * *

"Skilled professional medical personnel" means physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or for the Medicaid program.

"Staff of other public agencies" means skilled professional medical personnel and supporting staff who are employed in State or local agencies other than the Medicaid agency who perform duties that directly relate to the administration of the Medicaid program.

"Supporting staff" means secretarial and stenographic personnel who provide services that directly support the responsibilities of skilled professional medical personnel.

* * * * *

3. A new § 432.45 is added to Subpart C to read as follows:

§ 432.45 Applicability of provisions in subpart.

The rates of FFP specified in this Subpart C do not apply to State personnel who conduct survey activities and certify facilities for participation in Medicaid, as provided for under section 1902(a)(33)(B) of the Act.

4. Section 432.50 is amended by revising paragraph (c) and by adding paragraph (d) and paragraph (e), (former paragraph (c)(2)) to read as follows:

* * * * *

§ 432.50 FFP: Staffing and training costs.

* * * * *

(c) *Application of rates.*

(1) FFP will prorated for staff time that is split among functions reimbursed at different rates.

(2) Rates of FFP in excess of 50 percent apply only to those portions of the individual's working time that are spent carrying out duties in the specified areas for which the higher rate is authorized.

(3) The allocation of personnel and staff costs must be based on either the actual percentages of time spent carrying out duties in the specified areas, or another methodology approved by HCFA.

(d) *Other limitations for FFP rate for skilled professional medical personnel and supporting staff.*

(1) *Medicaid agency personnel and staff.* The rate of 75 percent FFP is available for skilled professional medical personnel and supporting staff of the Medicaid agency if the following criteria, as applicable, are met:

(i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;

(ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training" means the equivalent of the completion of a program leading to an academic degree in a medically-related profession. This may be demonstrated by possession of a medical license or certificate issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization.

Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care.

(iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.

(iv) An employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and supporting staff; and

(v) The supporting staff are secretarial or stenographic personnel who provide clerical services that are necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise either the supporting staff or the performance of the supporting staff's work.

(2) *Staff of other public agencies.* The rate of 75 percent FFP is available for staff of other public agencies if the requirements specified in paragraph (d)(1) of this section are met and the public agency has a written agreement with the Medicaid agency to verify that these requirements are met.

(e) *Limitations on FFP rates for staff in mechanized claims processing and information retrieval systems.* The special matching rates for persons working on mechanized claims processing and information retrieval systems (paragraphs (b) (2) and (3) of this section) are applicable only if the design, development and installation, or the operation, have been approved by the Administrator in accordance with Part 433, Subpart C, of this subchapter.

§ 432.60 [Removed and Reserved]

5. Section 432.60 is removed and reserved. Its content would be revised and redesignated as a new § 433.45 under Part 433.

B. Part 433 is amended as follows:

1. The table of contents is amended by adding a new § 433.45 to Subpart B, removing § 433.152 under Subpart D, and revising the authority statement to read as follows:

PART 433—STATE FISCAL ADMINISTRATION

* * * * *

Subpart B—General Administrative Requirements

* * * * *

Sec.

433.45 Sources of State share of financial participation.

* * * * *

Subpart D—Third Party Liability

* * * * *

Cooperative Agreements and Incentive Payments

* * * * *

§ 433.152 [Reserved]

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1903(d)(2), (o), and (p), 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396b(d)(2), (o), and (p), and 1396(k), unless otherwise noted.

2. Section 433.15 is amended by revising paragraph (b)(5) to read as follows:

§ 433.15 Rates of FFP for administration.

* * * * *

(b) *Activities and rates.*

* * * * *

(5) Compensation and training of skilled professional medical personnel and staff directly supporting those personnel if the criteria specified in § 432.50 (c) and (d) are met: 75 percent. (Section 1903(a)(2); 42 CFR 432.50(b)(1).)

* * * * *

3. A new § 433.45 is added to read as follows:

§ 433.45 Sources of State share of financial participation.

(a) *Public funds as the State's share.* (1) Public funds may be considered as the State's share in claiming FFP if they meet the conditions specified in paragraphs (a) (2) and (3) of this section.

(2) The public funds are appropriated directly to the State or local Medicaid agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section.

(3) The public funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(b) *Private donated funds as the State's share.* (1) Funds donated from private source may be considered as the State's share in claiming FFP only if they meet the conditions specified in paragraphs (b) (2) through (4) of this section.

(2) The private funds are transferred to the State or local Medicaid agency and are under its administrative control.

(3) The private funds are donated without any restriction on their use.

(4) The private funds do not revert to the donor's facility or use unless the donor is a non-profit organization, and the Medicaid agency, of its own violation, decides to use the donor's facility.

4. Section 443.136 is amended by revising the definitions of "Private insurer" and "Third party" to read as follows:

§ 433.136 Definitions.

For purposes of this subpart—

"Private insurer" means:

(1) Any commercial insurance company offering health or casualty insurance to individuals or groups (including both experience-rated insurance contracts and indemnity contracts);

(2) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for services included in the State plan; and

(3) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans.

"Third party" means any individual, entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State plan.

* * * * *

5. Section 433.139 is revised to read as follows:

§ 433.139 Payment of claims.

(a) *Basic provision.* The agency must process claims involving third party liability and seek recovery in accordance with the provisions specified in paragraphs (b) through (e) of this section.

(b) *Probable liability is established at the time claim is filed.* If the agency has established the probable existence of third party liability at the time the claim is filed, the agency must pay the claim only to the extent that payment allowed under the agency's payment schedule exceeds the expected amount of the third party's liability.

(c) *Probable liability is not established or benefits are not available at the time claim is filed.* If the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed, the agency must pay the full amount allowed under the agency's payment schedule.

(d) *Recovery of reimbursement.* If the agency learns of the existence of a liable third party, or benefits become available after a claim is paid, the agency must seek recovery of reimbursement from the third party to the limit of legal liability, unless it determines that

recovery would not be cost effective in accordance with paragraph (e) of this section.

(e) *Suspension or termination of recovery of reimbursement.*

(1) An agency must seek reimbursement from a liable third party on all claims for which it determines that the amount it reasonably expects to recover will be greater than the cost of recovery. Recovery efforts may be suspended or terminated only if they are not cost effective.

(2) The State plan must specify the threshold amount or other guideline that the agency uses in determining whether to seek recovery of reimbursement from a liable third party, or describe the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.

(3) The State plan must also specify the dollar amount or period of time for which it will accumulate billings with respect to a particular liable third party in making the decision whether to seek recovery of reimbursement.

6. Section 433.145 is revised to read as follows:

§ 433.145 Assignment of rights to benefits—State plan option.

(a) A plan may provide that, as a condition of eligibility, each legally able applicant and recipient assign his rights to medical support or other third party payment to the Medicaid agency and cooperate with the agency in obtaining medical support or payments.

(b) If an assignment is made under paragraph (a) of this section, the assignment is to be effective only for services reimbursed by Medicaid.

(c) If a plan requires an assignment, the plan must provide that the requirements under §§ 433.146 through 433.148 are met.

§ 433.149 [Removed and Reversed].

7. Section 433.149 is removed and reserved.

8. Section 433.151 is revised to clarify reference to the title IV–D agency and remove the cross-reference to § 433.152, to read as follows:

§ 433.151 Cooperative agreements and incentive payments—State plan options.

A plan that provides for assignment of rights may provide for written cooperative agreements for enforcement of rights to, and collection of, third party benefits. These agreements may be with the State child support enforcement (title IV–D) agency, any other State agency, courts, law-enforcement officials, and other States. If a plan provides for cooperative agreements, it must provide that the requirements in §§ 433.153 and 433.154 are met.

§ 433.152 [Removed and Reserved]

9. Section 433.152 is removed and reserved.

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: October 15, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: March 5, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-14885 Filed 6-1-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 151

[CGD 81-082]

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering recommendations by the Towing Safety Advisory Committee (TSAC) for limited changes to the rules for barges carrying hazardous liquid cargoes in bulk. The changes would improve the handling of hazardous vapors displaced during cargo loading. TSAC included in its recommendations changes drafted by the Coast Guard that would correct some outdated references dealing with the definition of hazardous materials moved in bulk on water. The Coast Guard has also included a recommendation by the National Transportation Safety Board that barges carry certificates of inhibition for those cargoes that require inhibition, similar to the requirement for ships. The Coast Guard is seeking public comment on these recommendations.

DATES: Comments must be received on or before August 3, 1984.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/44) (CGD 81-082), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/44), Room 4420, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Query, Office of Merchant Marine Safety, telephone (202) 426-1217.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this advance notice of proposed rulemaking by submitting written views, data or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81-032), identify the specific section of the notice to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. If an acknowledgment is desired, a stamped addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this notice. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this notice are: Mr. Robert M. Query, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion of the Notice

The Coast Guard has been considering a revision to the rules for carrying hazardous liquids in bulk by barge (46 CFR Part 151) for several years. Preliminary work took place in a number of public meetings of the Chemical Transportation Advisory Committee's Subcommittee on Chemical Vessels ("CTAC"). Additional discussions took place in public meetings of the Towing Safety Advisory Committee ("TSAC"). In these meetings, the Coast Guard had argued in favor of redrafting all the language in the part, its goal being to improve the language, flexibility, and organization of the part and to see which requirements could be reduced with no loss of safety. Progress in agreeing on a draft that achieved these goals was slow, primarily because many members of the public were comfortable with the existing language and its history of interpretation. With the lack of support for this redrafting effort, the Coast Guard accepted an offer by TSAC to draft a limited number of recommended changes to the existing regulation. TSAC presented the Coast Guard with these recommendations in its meeting of February 16, 1984. The TSAC recommendations are presented

in this advanced notice of proposed rulemaking.

In developing its recommendations, TSAC accepted a set of changes drafted by the Coast Guard to correct some outdated references. The changes drafted by the Coast Guard are in the title, the authority, §§ 151.01–1, 151.01–2, 151.01–3, 151.01–4, 151.01–15, and 151.50–5(a).

The Coast Guard has also included a change recommended by the National Transportation Safety Board (NTSB). This change would require that a certificate of inhibition be carried with those cargoes requiring inhibition during shipment. A similar requirement already applies to tankships carrying inhibited cargoes.

The remaining changes are those drafted and recommended by TSAC; TSAC further recommended that no other changes be made. The Coast Guard has been allowing plating less than 3/8 inch thick for acid tanks if the operator followed design and inspection procedures that ensured the minimum tank thickness needed to meet structural requirements. TSAC recommended this alternative no longer be allowed.

The following discussion outlines these various changes.

Changes to Correct Outdated References

When Part 151 was first published, it referred to several sections of title 46 for the definitions of the hazardous materials that it regulated. At a later time the referenced sections were deleted and the definitions in part 151 became obsolete. During the same period, the Secretary of Transportation delegated to the Coast Guard responsibility under the Hazardous Materials Transportation Act to determine what cargoes besides flammable or combustible liquids and EPA hazardous substances were "hazardous materials" when carried in bulk as liquids on vessels. To replace the obsolete references and to make the determination of what cargoes are hazardous materials, the Coast Guard would propose that any substance in the following list be a hazardous material:

(a) Any material listed in Table 30.25–1 of this chapter (the "Subchapter D" cargoes).

(b) Any material listed in Table 151.05 of this part (the "Subchapter O" cargoes for barges).

(c) Any material listed in Table 1 of Part 153 (the "Subchapter O" cargoes for ships).

(d) Any material listed in Table 4 of Part 154 (the liquefied gases on ships).

(e) Any liquid, liquefied gas, or compressed gas listed in 49 CFR 172.101 or 172.102.

(f) A liquid, liquefied gas, or compressed gas meeting any of the hazard definitions contained in 49 CFR Part 173.

(g) A liquid, liquefied gas, or compressed gas not in one of the above categories but which the Coast Guard finds to pose a significant hazard in bulk water transportation.

This list includes those cargoes the Coast Guard has already listed as hazardous materials (groups a, b, c, and d), all those liquids and compressed gases determined to be hazardous when shipped in packages domestically or internationally under title 49 requirements (groups e and f), and those materials which do not fall in one of the previous categories but which the Coast Guard determines to pose a significant hazard in bulk water transportation (group g). This last category would be used to deal with a cargo in that period of time between a preliminary evaluation suggesting it to be hazardous and a rulemaking that either added it to one of the lists mentioned or determined it not to be hazardous. These designations would cause no substantive change to the types of cargoes the Coast Guard has regulated under the (now obsolete) definitions.

The changes the Coast Guard has in mind would replace the existing 151.01–1 containing the erroneous references with a new §151.01–1 describing the rule's application. Some types of vessels do not come under the regulation; these types are taken from 46 U.S.C. 3702 and are the same as those formerly in 46 U.S.C. 391a. By rewriting the applicability in this way, Table 151.01–10(f) would be unnecessary and would be deleted. The new section on applicability would use the terms "bulk," "cargo," and "hazardous material," which would be defined or designated in the sections following.

A new §151.01–2 would contain a revised definition of "cargo" to distinguish it from a hazardous material used as fuel on the barge or as a "ships' stores" on the barge. The existing definition of cargo in § 151.03–9 would be deleted.

The existing § 151.01–3 makes no substantive contribution to the regulation. The section would be retitled and used for a definition of "bulk". The term "bulk" would be defined as having the same meaning as in the delegation of authority to the Coast Guard by the Secretary of Transportation in 49 CFR 1.46(t).

The list designating hazardous materials, mentioned previously, would be placed in § 151.01–4.

Section 151.01–15 would be retitled and redrafted to delete the reference to obsolete definitions and to clarify its language.

The first paragraph of § 151.50–5 would be rewritten to eliminate obsolete references.

The Coast Guard is also considering changing the name of the part to eliminate the term "unmanned" from the title. The existing title has offered the possibility of confusion because § 151.01–10(e) contains requirements for manned barges.

Changes Recommended by the NTSB

The National Transportation Safety Board has recommended that the Coast Guard require a certificate of inhibition for inhibited cargoes carried on barges, similar to that presently required for inhibited cargoes on ships by Part 153. The Coast Guard has drafted a new § 151.45–10 to do this.

Changes Recommended by TSAC

TSAC's recommended changes are printed verbatim except in those instances where the Coast Guard has made editorial changes. Any changes or corrections to the TSAC recommendations are noted in the discussion on the recommendation.

Section 151.01–10 Application of vessel inspection regulations. This section would be modified to delete the word "unmanned" at each occurrence, to delete the two cargo lists in Tables 151.01–10(b) and 151.01–10(d), to replace references to Table 151.01–10(b) by references to Table 151.05, to replace references to Table 151.01–10(d) by references to §30.25–1 of title 46, and to delete Table 151.01–10(f). By deleting the two cargo lists and replacing them by references to Table 151.05 or to § 30.25–1 of title 46, the Coast Guard can avoid the additional drafting work necessary to maintain the same information in several different places. Table 151.01–10(f) would be deleted for several reasons: the applicability of Part 151 would be covered in the section with that title; a table does not appear to be the best way to describe the applicability since a number of footnotes are needed to cover all possibilities; the table is misleading because it does not contain enough information to enable one to determine the applicability accurately.

Section 151.03–35 Limiting draft. This section would be changed by including vessel service (route) as a factor affecting the vessel's limiting

draft. Cargo density would replace specific gravity as the preferred term to describe this characteristic of the cargo.

Section 151.03–49 Sounding tube. This definition would be changed by deleting the words "fitted to an ullage hole" since a sounding tube is not necessarily installed this way.

Section 151.04–1 Certificate of inspection. Paragraphs (b) and (c) would be combined to list the information to be endorsed on the certificate of inspection.

Section 151.04–5 Inspections for certification. This section would be revised to extend the intervals between tank inspections, increase the test pressure and decrease the inspection intervals for cargo hoses carried on barges.

The Coast Guard has another rulemaking project that would make similar changes to this section, albeit in a somewhat different manner. These two projects will be brought into agreement before any final rule is published.

Table 151.05. The most extensive change to this table would add a new column to specify the type of venting arrangements necessary during cargo transfer. The existing venting requirements would continue to apply at other times. Several changes to requirements for specific cargoes are also recommended.

It should be noted that the present edition of the Code of Federal Regulations has the section references at the end of Table 151.05 shifted to the left by two columns. This error will be corrected in any notice of proposed rulemaking proceeding from this advanced notice.

Section *151.10–15 Certificate Endorsement.* Subparagraph (c)(2) of this section would be revised.

Section *151.15–3 Construction.* This section would be revised by rewording subparagraph (c)(2) and adding a subparagraph (c)(3). The rewording would clarify that even though ordinary bulkhead requirements meet the regulation, they might be damaged in an overfill.

Section *151.15–5 Venting.* This section would be revised by adding two new paragraphs to describe venting arrangements required during loading. These new venting arrangements would be called by reference from Table 151.05. The new arrangements reduce the crew's vapor exposure during loading by increasing the distance between cargo gauges and the point of vapor discharge. For cargoes with intermediate vapor toxicity, the displaced vapor would be vented at the end of the barge. Cargoes of greater vapor toxicity would be vented through a 12 foot riser.

Section *151.15–10 Cargo gauging devices.* This section would be revised by adding a new paragraph requiring a ten foot distance between the point of vapor discharge and the location of transfer controls and gauges for those cargoes requiring restricted or closed gauging.

Section *151.20–1 Piping—general.* Paragraph (a) of this section would be revised to allow class II piping for any cargo piping within a cargo tank.

Section *151.20–3 Cargo slop tanks.* This new section would be added to describe requirements for cargo slop tanks. TSAC's title for the section implied it dealt only with piping for slop tanks; the Coast Guard has clarified the title.

Section *151.20–5 Cargo system valving requirements.* Two new subparagraphs would be added to allow a remote controlled quick closing shutoff valve to be used in place of an excess flow valve.

Section *151.45–4 Cargo handling.* Subparagraph (c)(4) would be revised to require that cargo hatch covers be closed during transfer if the cargo has one of the new controlled or closed venting requirements in Table 151.05.

Section *151.50–5 Cargoes having toxic properties.* Paragraph (e) of this section would be modified to require gravity tanks to be designed for a 7 foot head of water. This is intended to ensure the tank can operate safely with a 3 psig PV valve setting.

Section *151.50–20 Inorganic acids.* Subparagraph (a)(1) would be reworded to drop the requirement that the tank be designed for a minimum 8 foot head of water. This aspect of the tank design would be covered by other sections dealing with high density cargoes (see the change to § 151.15–3). The restriction on changes in and out of acid carriage in paragraph (i) would be removed. TSAC also recommended that proposals for protective tank coatings be evaluated.

The Coast Guard has been allowing plating less than ⅜ inch thick for acid tanks if the operator followed design and inspection procedures that ensured the minimum tank thickness needed to meet structural requirements. TSAC recommended this alternative no longer be allowed.

Section *151.50–60 Benzene and Benzene Hydrocarbon Mixtures.* This section would be changed to specify closed gauging during cargo transfer and to list specific operations in which a respirator and other protective clothing had to be worn.

List of Subjects in 46 CFR Part 151

Barges, Flammable material, Hazardous materials transportation, Marine safety.

1. By revising the title of Part 151 to read as follows:

PART 151—BARGES CARRYING CERTAIN HAZARDOUS MATERIALS IN BULK

2. By revising the authority citation for Part 151 to read as follows:

Authority: 46 U.S.C. 3703, 49 U.S.C. 1801–1811; 49 CFR 1.46 (n)(4) and (t).

3. By revising and retitling § 151.01–1 to read as follows:

§ 151.01–1 Applicability.

This part applies to any barge that has a bulk liquid hazardous material cargo on board except as follows:

(a) This part does not apply when the hazardous material is listed in Table 30.25–1 of this chapter.

(b) This part does not apply when the barge is one of the following:

(1) A public vessel.

(2) A vessel of 500 gross tons or less used for oil exploitation and meeting the other conditions described in 46 U.S.C. 3702(b).

(3) A fishing vessel, tender, or other vessel used in the states of Alaska, Oregon, or Washington and meeting the other conditions described in 46 U.S.C. 3702 (c) and (d).

(4) A foreign vessel innocent passage as described in 46 U.S.C. 3702(e).

4. By adding a new § 151.01–2 to read as follows:

§ 151.01–2 Definition of the term "cargo".

In this part, the term "cargo" means a bulk liquid hazardous material except the following:

(a) A hazardous material listed in Table 30.25–1 of this chapter.

(b) A hazardous material used only as fuel on the barge.

(c) A hazardous material used only as a ship's stores on the barge.

5. By revising and retitling § 151.01–3 to read as follows:

§ 151.01–3 Definition of the term "bulk".

In this part, the term "bulk" as applied to a liquid hazardous material is used in the same sense as 49 CFR 1.46(t).

6. By adding a new § 151.01–4 to read as follows:

§ 151.01–4 Designation of hazardous materials.

(a) Flammable or combustible liquids and liquids designated "hazardous substances" by the Environmental Protection Agency are "hazardous

materials" as defined in 46 U.S.C. 2101(14).

(b) In addition to the materials described in paragraph (a), the Coast Guard designates each of the following as a "hazardous material" under 49 U.S.C. 1803:

(1) A material listed in Tables 30.25–1 of this chapter.

(2) A material listed in Table 151.05 of this part.

(3) A material listed in Table 1 of Part 153.

(4) A material listed in Table 4 of Part 154.

(5) Any liquid, liquefied gas, or compressed gas listed in 49 CFR 172.101 or 172.102.

(6) A liquid, liquefied gas, or compressed gas meeting any of the hazard definitions contained in 49 CFR Part 173.

(7) A liquid, liquefied gas, or compressed gas not in one of the above categories but which the Coast Guard finds to pose a significant hazard in bulk water transportation.

7. In § 151.01–10, by removing Tables 151.01–10(b), 151.01–10(d), 151.01–10(f), by removing and reversing paragraph (f), and by revising paragraphs (b), (c), (c–1), (d), and (e) to read as follows:

§ 151.01–10 Application of vessel inspection regulations.

* * * * *

(b) Every tank barge which carries or is intended to carry in bulk any liquid or liquefied gas listed in Table 151.05 that has flammability or combustibility characteristics as indicated by a fire protection requirement in the table shall be inspected and certificated under the provisions in Subchapter D (Tank Vessels) of this chapter and the regulations in this part.

(c) Every tank barge, prior to the carriage in bulk of any liquid or liquefied gas listed in Table 151.05 which does not have flammability or combustibility characteristics as indicated by the fire protection requirement in the table, shall be inspected and certificated under the applicable provisions of Subchapter D or Subchapter 1 of this chapter at the option of the barge owner, in addition to the regulations in this part. However, unless the barge owner notifies the Officer in Charge, Marine Inspection of his option to have the barge inspected and certificated under Subchapter 1 at the time he submits the application for inspection (Form CG–3752), the unmanned tank barge shall be inspected and certificated under the provision of Subchapter D of this chapter and the regulations in this part.

(c–1) Each tank barge constructed on or after September 6, 1977, that carries in bulk a cargo listed in Table 151.05 and that is certificated under Subchapter 1 of this chapter must meet the loading information requirements in § 31.10–32 of this chapter.

(d) The provisions of Subchapter D of this chapter shall apply to all unmanned tank barges which carry in bulk any of the liquids or liquefied gases listed in Table 30.25–1 of this chapter. The provisions of this part shall not apply to such barges unless it is also desired to carry one or more of the liquids or liquefied gases listed in Table 151.05.

(e) Manned barges which carry or intend to carry in bulk the cargoes specified in Table 151.05 will be considered individually by the Commandant and may be required to meet the requirements of this subchapter and of Subchapter D (Tank Vessels) of this chapter as applicable.

(f) [Reserved].

8. By revising and retitling § 151.01–15 to read as follows:

§ 151.01–15 Carrying a cargo or cargo mixture not listed in Table 151.05 or in Table 30.25–1 of this part.

The operator of a barge that has a hazardous material on board must have written authorization from the Commandant (G–MTH) to carry the hazardous material and must meet the requirements prescribed in the written authorization unless the hazardous material is—

(a) listed in Table 151.05,

(b) listed in Table 30.25–1 of this part, or

(c) a mixture in which each hazardous material in the mixture is listed in Table 30.25–1.

§ 151.03–9 [Reserved].

9. By removing and reserving § 151.03–9.

10. By revising § 151.03–35 to read as follows:

§ 151.03–35 Limiting draft.

Maximum allowable draft to which a barge may be loaded. Limiting draft is a function of hull type, service, and cargo density. A barge may be assigned several different limiting drafts based upon the combinations of hull type, service, and cargo densities for which the barge is approved.

11. By revising § 151.03–49 to read as follows:

§ 151.03–49 Sounding tube.

This is an unperforated tube secured so as to be vapor tight to the underside of the tank top, open at the bottom, and extending to within 18 inches or less of the bottom of the tank.

12. In § 151.04–1 by removing and reserving paragraph (c) and by revising paragraph (b) to read as follows:

§ 151.04–1 Certificate of inspection.

* * * * *

(b) The certificate shall be endorsed with the following information:

(1) The waters over which the barge may operate.

(2) The cargoes authorized for carriage by name as given in Table 151.05 or as specifically approved by the Commandant. No other cargo, as defined in Subpart 151.01, shall be carried.

(3) The maximum draft, corresponding cargo weight (short tons) and maximum density (lbs/gal) for each hull type and route as determined from Subpart 151.10.

(4) The maximum cargo weight (short tons) and maximum density (lbs/gal) for each tank as determined from 151.15.

(c) [Reserved].

13. In § 151.04–5, by revising paragraph (b)(2) and paragraphs (c) and (h) to read as follows:

§ 151.04–5 Inspections for certification.

* * * * *

(b) * * *

(2) Where the cargo tank is of the gravity type and the structural framing is on the external tank surface and is accessible for examination from voids, cofferdams, double bottoms and other similiar spaces, tanks shall be inspected internally at each drydock inspection requiring the vessel to be hauled out.

* * * * *

(c) Cargo tanks shall be visually inspected externally at the time of the vessel's alternate internal in lieu of drydock inspection. In the case of single skin construction, underwater portions of the tank will be examined at the vessel's regular drydocking or more often if deemed necessary by the Officer in Charge, Marine Inspection.

* * * * *

(h) Cargo hose stored on board the vessel which is used in transferring cargoes listed in Table 151.05 shall be inspected every year. This inspection shall consist of a visual examination and a hydrostatic test of 1½ times the maximum allowable working pressure. The date of the most recent inspection and the test pressure shall be stenciled or otherwise marked on the hose.

* * * * *

14. In Table 151.05, by retitling the column subheading "Vent" to read:

Venting	
During cargo transfer	At all other times

retaining the existing column entries under the subheading "At all other times," and adding under the subheading "During cargo transfer" the following entries:

Cargo name	During cargo transfer
Acetaldehyde	Return.
Acetic acid	Open.
Acetic anhydride	Do.
Acetone cyanohydrin	C_3
Acetonitrile	C_3.
Acrylonitrile	C_3.
Adiponitrile	Open.
Allyl alcohol	C_3.
Allyl chloride	C_3.
Aminoethylethanolamine	Open.
Ammonia, anhydrous	Return.
Ammonia, anhydrous	Do.
Ammonium hydroxide, not to exceed 28% by weight.	Open.
Aniline	C_3
Benzene	C_3.
Benzene-hydrocarbon Mixtures (containing acetylenes) (having 10% benzene or more).	C_3.
Benzene-hydrocarbon Mixtures (having 10% benzene or more).	C_3.
Benzene, toulene, xylene Mixtures (having 10% benzene or more).	C_3.
Butadiene, butene Mixtures (inhibited) (containing acetylenes).	Return.
Butadiene, inhibited	Do.
n-Butyl acrylate	Open.
iso-Butyl acrylate	Do.
Butylamine	C_3.
Butylmethacrylate (inhibited)	Open.
Butyraldehydes (crude)	Do.
Butyraldehyde, (n)	Do.
iso-Butyraldehyde	Do.
Camphor oil (light)	Do.
Carbolic oil	C_3.
Carbon bisulfide	C_3.
Carbon dioxide, liquid	Return.
Carbon tetrachloride	C_3.
Caustic potash solution	Open.
Caustic soda solution	Do.
Chemical wastes (mixture of chlorinated hydrocarbons and caustic materials).	C_3.
Chlorine	Return.
Chlorobenzene	Open.
Chloroform	Do.
Chlorohydrins (crude)	C_3.
Chlorosulfonic acid	C_3.
Creosote	Open.
Cresols	Do.
Cresylate spent Caustic	Do.
Crotonaldehyde	C_3.
iso-Decyl acrylate (inhibited)	Open.
Dichlorodifluoromethane	Return.
2,2'-Dichloroethyl Ether	Open.
Dichloropropane	C_3.
Dichloropropene	C_3.
Dichloromethane	Open.
Diethanolamine	Do.
Diethylamine	Do.
Diethylenetriamine	Do.
Diisobutylamine	Do.
Diisopropanolamine	Do.
Diisopropylamine	C_3.
Dimethylamine	Return.
Dimethylformamide	Open.
1,4-Dioxane	C_3.
Di-n-propylamine	C_3.
Epichlorohydrin	C_3.
Ethyl acrylate	Open.
Ethyl chloride	Return.
Ethyl cyclohexylamine	Open.
2-Ethyl-3-propyl acrolein	Do.
Ethyl n-butylamine	Do.
Ethyl ether	C_3.
2-Ethyl hexyl acrylate (inhibited)	Open.
Ethylamine (72% or less)	C_3.
Ethylene cyanohydrin	Open.
Ethylene diamine	Do.
Ethylene dibromide	C_3
Ethylene dichloride	Open.
Ethylene oxide	Return.
Ethyldene norbornene (inhibited)	C_3
Ferric chloride Solutions	Open.
Formaldehyde solution, 37-50%	Do.
Formic acid	Do
Furfural	Do.
Hexamethylenediamine—solutions	Do
Hydrochloric acid	Do
Hydrochloric acid, spent (15% or less)	Do.
Hydrofluoric acid	C_3
Hydrofluorosilicic acid (25% or less)	C_3
Hydrogen chloride	n/a
Hydrogen fluoride	n/a
2-Hydroxyethyl acrylate (inhibited)	C_3
Industrial wastes containing dimethyldisulfide, methyl mercaptan, and methanol.	C_3
Isoprene	Open.
Methyl acrylate	Do
Methyl bromide	Return.
Methyl chloride	Do.
Methyl methacrylate	Open.
Methylacetylene propadiene mixture	Return.
2-Methyl pyridine	Open.
2-Methyl-5-ethyl pyridine	Do.
alpha-Methyl styrene (inhibited)	Do
Monochlorodifluoromethane	Return.
Monoethanolamine	Open.
Monoisopropanolamine	Open
Morpholine	Do.
Motorfuel antiknock compounds	C_3
Nitric acid (70% or less)	Open.
Nitrobenzene	C_3
1- or 2-Nitropropane	Open.
Oleum	Do
1,3-Pentadiene (inhibited)	Do
Perchloroethylene	Do
Phenol	C_3
Phosphorus, elemental	C_3
Phosphoric acid	Open
Phthalic anhydride	Do
Polyethylenepolyamine	Do
Polymethylene-polyphenylisocyanate	C_3
Polymyrobenzyltrimethyl ammonium chloride solution.	Open.
Propionic acid	Do
iso-Propylamine	C_3
Propylene oxide	Return.
Pyridine	Open
Sodium Chlorate solution (50% or less)	Do.
Sodium sulfide, hydrosulfide solution (H_2S 15 ppm or less)	Do.
Sodium sulfide, hydrosulfide solutions (H_2S greater than 15 ppm but less than 200 ppm).	C_3
Sodium sulfide, hydrosulfide solutions (H_2S greater than 200 ppm).	C_3
Styrene monomer	Open.
Sulfur (liquid)	Do
Sulfur dioxide	Return.
Sulfuric acid	Open.
Sulfuric acid spent	Do
Tetraethylene pentamine	Do
Toluene diisocyanate	C_3
Trichloroethylene	Open.
1,2,3-Trichloropropane	C_3
Triethanolamine	Open.
Triethylamine	C_3
Triisopropanolamine	Open.
Triethylene tetramine	Do
Vinyl acetate	Do.
Vinyl chloride	Return.
Vinyl chloride	Do
Vinylidene chloride	C_3
For requirements see these sections	151.15-5

15. In Table 151.05, by revising the entry under "Gauging device" to that shown below for the following cargoes:

Cargo identification***	Gauging
Benzene	Restricted
Carbon tetrachloride	Closed
Chlorosulfonic acid	Do.
Dichloropropene	Do.

16. In Table 151-05, by revising the entry under "Hull type" to that shown below for the following cargoes:

Cargo identification***	Hull type
Carbon tetrachloride	II
Dichloropropene	I

17. By revising footnote I to Table 151.05 to read as follows:

1. Group D required as indicated in Subpart 111.105 of this chapter.

18. In § 151.10-15, by revising paragraph (c)(2) to read as follows:

§ 151.10-15 Certificate endorsement.

* * * * *

(c) * * *

(2) Maximum density (lbs/gal) and maximum cargo weight (short tons) for each tank for which approval is requested. The maximum density may be greater than that for which the scantlings of the tank are designed, provided that there is compliance with the provisions of § 151.15-3(c). The maximum cargo weight for each tank will normally reflect uniform loading except that for trim purposes the individual tank cargo weight may exceed the uniform loading tank cargo weight, corresponding to the barge fresh water deadweight at the limiting draft, by 5 percent. Where a greater degree of nonuniform loading is desired, longitudinal strength calculations shall be submitted.

19. In § 151.15-3, by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 151.15-3 Construction.

* * * * *

(c) * * *

(2) The tank is designed to meet the American Bureau of Shipping rules for ordinary bulkheads for a head of cargo equal to the highest level the cargo can rise, usually the top of the overflow vent. The specific gravity of the cargo shall be used.

(3) The tank is designed to meet the American Bureau of Shipping rules for deep tank bulkheads for a head of cargo equal to the highest level the cargo is permitted to be loaded. The specific gravity of the cargo shall be used.

20. § 151.15-5, by adding new paragraphs (a-1) and (b-1) to read as follows:

§ 151.15-5 Venting.

* * * * *

(a-1) *Controlled venting.* A venting system which offers no restriction (except pipe losses and flame screen) to the movement of liquid or vapor to or from the cargo tank (via the vent) under

normal operating conditions. Where the cross sectional area of the vent piping is less than the fill piping or pipe, protection may be required against overpressurization of the cargo tank. Where the maximum possible liquid height of cargo produces an overpressurization of the cargo tank liquid spill valves shall be required. Controlled venting is one of the following two types:

(1) *Ca.* The vent piping shall lead to a single discharge point on the barge. The discharge point shall be located near the end of the barge opposite the pump or normal working area. The vent height shall be at a reasonable height above the weather deck.

(2) *Cb.* The vent piping shall terminate in a riser extending at least 12 feet above the highest level accessible to personnel. The vent riser(s) may be collapsible for ease of storage when not in use.

* * * * *

(b-1) *Return venting.* Vapors are required to be returned to shore or must be processed aboard the vessel so that the cargo tanks will not be overpressurized.

* * * * *

21. In § 151.15–10, by adding a new paragraph (k) to read as follows:

§ 151.15–10 Cargo gauging devices.

* * * * *

(k) Additionally, for cargoes requiring restricted or closed gauging devices, these devices, the tank fill controls, including valve handwheels and transfer header valves, as well as emergency cargo pump shut-down devices shall be located at least 10 feet from cargo tank openings required for venting vapors by § 151.15–5.

22. In § 151.20–1, by revising paragraph (a) to read as follows:

§ 151.20–1 Piping—general.

(a) Cargo piping systems shall be arranged and fabricated in accordance with this section and Subchapter F. The class of piping system required for a specific cargo shall be as listed in Table 151.05 as a minimum; however, a higher class may be required when the actual service temperature or pressure so dictates. Class II piping is permitted for locations within a cargo tank. See Table 56.04–2 of this chapter.

* * * * *

23. By adding a new § 151.20–3 to read as follows:

§ 151.20–3 Cargo slop tanks.

This section lists the requirements for slop tanks permanently installed for stripping operations:

(a) All venting, gauging, segregation, collision protection, and fire protection requirements for cargo tanks shall also apply to cargo slop tanks.

(b) Piping for stripping tanks shall be permanently installed including the drops into the tank and the discharge into the slop tank, except that a portable pump with the minimum reasonable lengths of flexible hose may be inserted and removed in lieu of a permanently installed pump.

(c) There shall be electrical continuity between the pump and the pipe sections.

(d) The discharge to the slop tank must lead through the top of the slop tank and the suction from the slop tank must be as near the bottom of the slop tank as is practical.

(e) The piping shall comply with the cargo piping requirements for the Subchapter O cargoes for which the vessel is certificated.

(f) The piping and slop tank shall comply with the distance requirements of 151–15–3(d).

24. In § 151.20–5, by revising paragraphs (c)(1) and (d)(1) to read as follows:

§ 151.20–5 Cargo system valving requirements.

* * * * *

(c) * * *

(1) One manually operated stop valve and one excess flow valve shall be installed on each tank penetration, located as close as possible to the tank. In lieu of one excess flow valve, a remote-controlled quick-closing shut-off valve arranged in accordance with §§ 38.10–1(i) and 38.10–5 of this chapter may be provided.

* * * * *

(d) * * *

(1) One manually operated stop valve and one excess flow valve shall be installed at each tank penetration, located as close as possible to the tank. In lieu of one excess flow valve, a remote-controlled quick-closing shut-off valve arranged in accordance with §§ 38.10–1(i) and 38.10–5 of this chapter may be provided.

* * * * *

25. In § 151.45–4, by revising paragraph (c)(4) to read as follows:

§ 151.45–4 Cargo handling.

* * * * *

(c) * * *

(4) Cargo transfer operations for any cargo requiring a controlled or closed venting device or safety relief venting device in Table 151.05 shall be performed with cargo hatch covers closed.

* * * * *

26. By adding a new § 151.45–10 to read as follows:

§ 151.45–10 Certificate of inhibition.

When a cargo in Table 151.05 has the word "inhibited" or "stabilized" in its name, the person in charge of a barge carrying the cargo must have a certificate issued by the shipper stating that the cargo is inhibited or stabilized, and containing the following information:

(a) The name and concentration of the inhibitor or stabilizer.

(b) The date the inhibitor or stabilizer was added to the cargo.

(c) The approximate expiration date of the inhibitor or stabilizer.

(d) Any temperature limitations qualifying the expiration date.

(e) The action to be taken should the cargo remain in the barge beyond the expiration date.

27. In § 151.50–5, by revising paragraphs (a) and (e) to read as follows:

§ 151.50–5 Cargoes having toxic properties.

(a) When Table 151.05 refers to this section, the barge and cargo containment system must meet the requirements of this section.

* * * * *

(e) Gravity type cargo tanks shall be designed for a minimum design head of 7 feet of water (3 psig) and shall be fitted with an approved pressure-vacuum relief valve of not less than 2½ inch size, which shall be set at a pressure of not less than 3 pounds per square inch gauge.

* * * * *

28. In § 151.50–20, by removing and reserving paragraph (i) and revising paragraph (a)(1) to read as follows:

§ 151.50–20 Inorganic acids.

(a)(1) Gravity type cargo tanks shall be designed and tested to meet the rules of the American Bureau of Shipping for a head of cargo equal to the highest level the lading may rise at the density of the cargo. The plate thickness of any part of the tank shall not be less than three-eighths inch.

* * * * *

(i) [Reserved].

29. In § 151.50–60, by revising the heading, redesignating paragraph (b) as paragraph (d), redesignating paragraph (c) as paragraph (e), revising paragraph (a), and adding new paragraphs (b) and (c) to read as follows:

§ 151.50–60 Benzene and benzene hydrocarbon mixtures.

* * * * *

(a) In addition to the restricted gauging devices required by Table 151.05, all barges are to be fitted with a closed cargo gauging system, as defined by 151.15–10(c), for use during cargo transfer operations.

(b) The licensed officer, certified tankerman, or person in charge of a barge shall ensure as a minimum that respirators meeting 29 CFR 1910.134 are properly utilized by all personnel aboard the barge when the following functions are being performed:

(1) Sampling cargo.

(2) Making or breaking a cargo hose connection.

(3) Opening a cargo tank by opening a Butterworth hatch, ullage hatch, cargo tank hatch, sounding tube opening, or any other similar opening.

(4) Transferring cargo when the cargo tanks are vented at a height less than 12 feet above the cargo tank deck level.

(5) At all other times when an individual is exposed to breathing an airborne concentration of benzene in excess of—

(i) 10 parts per million as an 8 hour time weighted average, or

(ii) 25 parts per million as a time weighted average over any 10 minute period.

(c) Each person shall wear a face mask or tight fitting goggles for eye protection and protective gloves and boots against splashing or spraying liquids if that person is—

(1) Sampling cargo;

(2) Making or breaking a cargo hose connection; or

(3) Gauging a cargo tank through a restricted gauge.

(46 U.S.C. 3703, 49 U.S.C. 1801–1811; 49 CFR 1.46 (n)(4) and (t))

Dated: May 25, 1934.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 84-14743 Filed 6-1-84; 8:45 am]

BILLING CODE 4910-14-M

Notices

Federal Register
Vol. 49, No. 108
Monday, June 4, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Intent To Prepare an Environmental Impact Statement for the Stevens Gulch Road Extension, Hubbard Creek, Dyke Creek, and Elk Creek Timber Sales; Grand Mesa, Uncompahgre, and Gunnison National Forests Delta and Mesa Counties, Colorado

The Grand Mesa, Uncompahgre, and Gunnison National Forests, Forest Service, Department of Agriculture, are preparing an environmental impact statement on the following actions, Stevens Gulch road extension and the Hubbard Creek, Dyke Creek, and Elk Creek timber sales on the Paonia Ranger District as scheduled in the Forest Land and Resource Management Plan approved September 29, 1983.

Based on a review of the Overland Reservoir Transportation Analysis Plan Environmental Assessment, appellant's Statement of Reasons, and additional public comment received after the Environmental Assessment was prepared; Forest Supervisor Raymond J. Evans determined that there may be significant impacts from the proposal.

Some of the issues related to the decision to prepare an environmental impact statement were:

1. Concerns that public involvement was not adequately solicited.

2. Expressed public concern for wildlife and fish in the area, particularly elk, related to habitat loss, animal displacement, and herd reduction.

3. Some landowner's concerns for property values in Hubbard Park.

4. Concern for cumulative environmental impacts of improved road access, timber activities, combined with increased recreational use, as well as possible oil and gas exploration activities.

5. Concern that financial costs to Government exceed financial benefits of project proposals.

Considering these issues, the Forest Supervisor determined that an environmental impact statement would be prepared. In addition to alternatives developed subsequent to public scoping, the following alternatives will be considered:

Alternative A—No Action. Maintain the Stevens Gulch road as a four-wheel drive access to the area and leave the tree stands in a natural state. No vegetation treatment will occur.

Alternative B—Proposed Action. Extend and improve the Stevens Gulch road (8.2 miles of reconstruction and 5.5 miles of new construction) to access the Hubbard Creek, Dyke Creek, and Elk Creek timber sales. These are the timber sales scheduled in the first 10 years of the Forest Land and Resource Management Plan.

Alternative C—Improve and extend the Stevens Gulch road to access timber sales which would be modified to reduce disturbance to the elk herd below that which would occur with the proposed action and schedule timber sales to be within the physical capacity of existing mills and financial capability of local timber purchasers.

Scoping for the Overland Reservoir Transportation Analysis Plan Environmental Assessment identified 34 issues, concerns, and opportunities. An information summary for the scoping process is available at either address below.

Scoping for the Environmental Impact Statement will include public meetings in Paonia, Delta, and Grand Junction, Colorado. Public meetings will be held between June 18 and 29, 1984. Dates, times, and places of these meetings will be announced in the *North Fork Times, Delta County Independent,* and *Grand Junction Sentinel.* A one day field trip to the area is tentatively planned during the week of July 2–6, 1984. The scoping process will end July 16, 1984.

Raymond J. Evans, Forest Supervisor of the Grand Mesa, Uncompahgre, and Gunnison National Forests is the responsible official. Comments and suggestions concerning the analysis should be sent to Mr. Evans at 2250 Highway 50 South, Delta, CO 81416 by July 16, 1984.

Questions concerning preparation of the Environmental Impact Statement should be directed to Dalton L. Ellis, Paonia District Ranger, Box AG, Paonia, CO 81428, phone (303) 527–4131.

The estimated date for filing the draft Environmental Impact Statement is September 15, 1984, and final Environmental Impact Statement, February 15, 1985.

Raymond J. Evans,

Forest Supervisor.

[FR Doc. 84–14802 Filed 6–3–84; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Decision on Application for Duty-Free Entry of Scientific Instrument; Baylor College of Medicine

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84–29. Applicant: Baylor College of Medicine, Houston, TX 77030. Instrument: Hydraulic Microdrives, Model MO–10 & MO–103–R. Manufacturer: Narishige Scientific Instrument Lab., Japan. Intended use: See notice at 49 FR 1782.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides finely controlled movements in three orthogonal dimensions with controls calibrated in micrometers (minimum scale for all directions is 2 μm). The National Institutes of Health advises in its memorandum dated March 21, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14879 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Louisiana State University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 84-79. Applicant: Louisiana State University, Baton Rouge, LA 70803. Instrument: Dynamic Equilibrium Still, Model LABODEST, with Accessories. Manufacturer: Fischer Laborund Verfahrenstechnik, West Germany. Intended use: See notice at 49 FR 8056.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign article can be operated under vacuum, atmospheric pressure or over-pressure as well as at temperatures up to approximately 300°C providing thermodynamic data on the vapor-liquid equilibria. The National Institutes of Health advises in its memorandum dated April 24, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14872 Filed 6-1-84; 8:45 am]

BILL CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; National Radio Astronomy Observatory

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 84-195. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85745-1489. Instrument: Klystron, Model VRT2123A36 with Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use: The instrument will be used as a phase-locked local oscillator which is used in conjunction with a microwave receiver and antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: April 24, 1984.

Docket Number: 84-196. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85745-1489. Instrument: Klystron, Model VRB2113A30 with Accessories. Manufacturer: Varian Associates, Ltd., Canada. Intended use: The instrument will be used as a phase-locked local oscillator which is used in conjunction with a microwave receiver and antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: April 24, 1984.

Docket Number: 84-199. Applicant: University of Tennessee Center for the Health Sciences, 800 Madison Avenue, Memphis, TN 38163. Instrument: Mass Spectrometer and Data System, Model VG 7070 E/11-250. Manufacturer: VG Scientific Instruments, United Kingdom. Intended use: Analysis of biologically important molecules including but not limited to: peptides, fatty acids, steroids, prostaglandins, leucotrienes, phospholipids, etc. The molecular structure of these compounds will be determined by state-of-the-art mass spectrometric methods. Once that structure is known, an endogenous compound will be quantified using mass spectrometric techniques in an effort to remove any ambiguity associated with the analytical measurement. Educational purposes—Expose the students (in the course "Basic Principles of Mass Spectrometry") to the techniques of mass spectrometry so that they will appreciate the advantages and disadvantages of the analytical method. Application received by Commissioner of Customs: April 27, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14883 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; North Carolina State University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 84-137. Applicant: North Carolina State University, Raleigh, NC 27695-7212. Instrument: LaB_6 Electron Gun Conversion Kit and Parts. Manufacturer: Hitachi, Japan. Intended use: See notice at 49 FR 14155.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. National Bureau of Standards advises in its memorandum dated May 14, 1984 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11-105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14876 Filed 6-1-84; 8:45 am]

Billing Code 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Oregon State University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-87. Applicant: Oregon State University, Corvallis, OR 97331. Instrument: Mass Spectrometer, Model MS-50TC with Accessories. Manufacturer: Kratos, United Kingdom. Intended use: See notice at 49 FR 10139.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (September 1, 1983). Reasons: The foreign article provides: (1) Resolution of 40 000 (10% valley definition) in the dynamic mode and 150 000 (10% valley definition) in the static mode and (2) mass range to 7500 amu at 8 kilovolts. The National Institutes of Health advises in its memorandum dated April 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14881 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; the Pennsylvania State University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-118. Applicant: The Pennsylvania State University, University Park, PA 16802. Instrument: Laser-Interference-Velocimeter, System ISL. Manufacturer: DIEHL GmbH and Company, West Germany. Intended use: See notice at 49 FR 13734.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument is capable of making simultaneous non-intrusive measurements of particle size and particle velocity of flow fields. The National Bureau of Standards advises in its memorandium dated May 11, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14883 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; the Regents of the University of California

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket number: 84-40. Applicant: The Regents of the University of California, Riverside, CA 92521. Instrument: Mass Spectrometer, Model ZAB-1F HF with Accessories. Manufacturer: The Vacuum Generators Micromass Co., United Kingdom. Intended use: See notice at 49 FR 13394.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Capability to measure kinetic energy release (energy resolution=5,000), (2) fast atom bombardment (FAB) and (3) a combination of high resolution, 100 000 (10% valley) in double focusing mode and optimum metastable sensitivity. The National Institutes of Health advises in its memorandum dated April 2, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14874 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Stanford University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 84-75. Applicant: Stanford University, Stanford, CA 94305. Instrument: Mass Spectrometer & Data System, Model VG ZAB 2E/11-250 with Accessories. Manufacturer: VG Analytical, United Kingdom. Intended use: See notice at 49 FR 8055.

Comments: None received. Decision: Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides resolution to 100 000 (10% valley) and mass range (m/z) to 10 000 at full accelerating voltage. The National Institutes of Health advises in its memorandum dated April 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14878 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Trustees of the University of Pennsylvania

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 84-107. Applicant: Trustees of the University of Pennsylvania, Philadelphia, PA 19104. Instrument: Sample Exchange System (Manipulator). Manufacturer: High Voltage Engineering, The Netherlands. Intended use: See notice at 49 FR 14156.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. National Bureau of Standards advises in its memorandum dated May 14, 1984 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14873 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of California et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instrument shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-186. Applicant: University of California, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94720. Instrument: Spectrophotometer, Model RA-401/RA-414 with Accessories. Manufacturer: Union Giken Company, Japan. Intended use: Detailed examination of structure, conformational changes, mechanism of action, and interactions of various enzymes and oligonucleotides. The materials for study will be aspartate transcarbamylase, cytidine deaminase, zinc and serine peptidases, chorismate mutase, dopamine-*B*-monooxygenase, deoxyoligonucleotides of alternating dG-dC sequences, and aspartate aminotransferase. Educational purposes—Teach graduate and undergraduate students how to do research in various courses in Molecular Biology, Biochemistry and Chemistry. Application received by Commissioner of Customs: April 16, 1984.

Docket number: 84-193. Applicant: Pitt County Memorial Hospital, 200 Stantonsburg Road, Greenville, NC 27834. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Ultrastructural studies of histologic and cytologic material from human and animal sources in order to make diagnoses to further patient care and to better understand disease processes. The instrument will also be used in teaching resident physician pathologists and medical students ultrastructural diagnostic techniques. Application received by Commissioner of Customs: April 24, 1984.

Docket number: 84-194. Applicant: University of Illinois, Urbana Champaign Campus, Purchasing Division, 506 S. Wright Street, Urbana, IL 61801. Instrument: Spectrophotometer System. Manufacturer: Atago Bussan Company, Ltd., Japan. Intended use: Studies involving cytochrome P450 systems such as (1) homolytic oxygen-oxygen bond cleavage; (2) correlating spectral intermediates and product formation rates via a systematic variation of the substituents on toluene substrates and cumene hydroperoxide oxidants. Other studies involve rapid scan of heme protein oxidase by degradation of methyl substituted aromatic compounds by oxidation of the methyl group prior to oxidative ring fission. Application received by Commissioner of Customs: April 24, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14880 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of California

The decision is made purusant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 84-81. Applicant: University of California, San Francisco, CA 94121. Instrument: Counter Current Distribution Apparatus. Manufacturer: Kemicentrum, Sweden. Inteded use: See notice at 49 FR 8056.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being

manufactured in the United States. Reasons: The foreign instrument, an Albertson type thin layer counter-current apparatus for separating cell membranes, provides precisely machined partitioning plates capable of 120 counter-current exchanges with small amounts of membrane and unattended separation of membrane subpopulation. The National Institutes of Health advises in its memorandum dated April 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14875 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of Connecticut Health Center

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket number: 84-68. Applicant: University of Connecticut Health Center, Farmington, CT 06032. Instrument: X-ray Generator, Model GX-13 with Accessories. Manufacturer: Marconi Avionics Limited, United Kingdom. Intended use: See notice at 49 FR 8055.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) a brilliancy of 27 kilowatts/mm ^{2} (as a result of high source intensity) and (2) a small focused spot, 100 microns (μm) in width. The National Institutes of Health advises in its memorandum dated April 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United Stares.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14877 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instruments; University of Iowa

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 83-224R. Applicant: University of Iowa, Iowa City, IA 52242. Instrument: Tunable CO_2 Laser, Model EMG 102-60 and EMG 102-ES Upgrade Kit. Original notice of this resubmitted application was published in the Federal Register of July 7, 1983.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (September 27, 1982). Reasons: This application is a resubmission of Docket Number 83-224 which was denied without prejudice to resubmission for informational deficiencies. The foreign instrument provides a timing jitter of $\pm$0.5 nanoseconds, which is pertinent to the applicant's experiments involving fast transient measurements and subnanosecond plasma discharges. The National Bureau of Standards advises in its memorandum dated May 4, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14882 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of Tennessee

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-78. Applicant: University of Tennessee, Knoxville, TN 37996. Instrument: Ultra-high-frequency Microwave Detector. Manufacturer: Oxford Instruments, United Kingdom. Intended Use: See notice at 49 FR 8056.

Comments: None received. Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (March 30, 1983). Reasons: The foreign instrument provides a stable electron detector allowing energy relaxation times of about 0.1 microseconds permitting submillimeter wave detection. The National Bureau of Standards advises in its memorandum dated May 17, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both willing and able to provide an instrument with the required feature (features) at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable

delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to Advanced Kinetics of Costa Mesa, California (the only known domestic manufacturer of comparable instruments), it is apparent that the domestic manufacturer was either not willing or not able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14884 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Virginia Commonwealth University

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-60. Applicant: Virginia Commonwealth University, Richmond, VA 23298. Instrument: (2) Hydraulic Micromanipulators, Model MO-102 with 3-axes of motion. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended use: See notice at 49 FR 7842.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides a hydraulic microdrive system with single/lever control in three directions with tolerances for X and Y movements of 2 μm. The National Institutes of Health advises in its memorandum dated April 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-14889 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-015]

Unprocessed Float Glass From Mexico; Countervailing Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to the manufacturers, producers, or exporters in Mexico of unprocessed float glass (float glass), as described in the "Scope of Investigation" section of this notice. The net bounty or grant is 2.54 percent *ad valorem*. The Department of Commerce, Vitro Flotado S.A. and Vidrio Plano de Mexico, S.A., the only known manufacturers and exporters of float glass to the United States, have entered into a suspension agreement (49 FR 7264). However, we continued the investigation at the request of the petitioner. The suspension agreement will remain in force, and we will not issue a countervailing duty order unless there is a violation of the agreement or we determine that it no longer meets the requirements of sections 704(b) and (d), as provided in section 704(i) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: June 4, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-1756.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of float glass, as described in the "Scope of Investigation" section of this notice. We determine the net bounty or grant to be 2.54 percent *ad valorem*.

Case History

On September 16, 1983, we received a petition from counsel for PPG Industries, Inc., filed on behalf of the United States industry producing float glass. The petition alleges that the government of Mexico bestows bounties or grants upon the production or exportation of float glass within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on October 6, 1983, we initiated a countervailing duty investigation (48 FR 47039). We stated that we would issue a preliminary determination on or before December 12, 1983.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act and, therefore, section 303 of the Act applies to this investigation. The merchandise being investigated is dutiable. Therefore, under this section the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On October 21, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On November 23, 1983, we received the

response to our questionnaire from the government of Mexico.

On December 12, 1983, we issued our preliminary determination in this investigation (48 FR 56095). We preliminarily determined that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of float glass. The program preliminarily determined to bestow countervailable benefits was the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).

We preliminarily determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by the manufacturers, producers or exporters in Mexico of float glass:

- Certificates of Fiscal Promotion (CEPROFIs)
- Import Duty Reductions and Exemptions
- Trust Fund for Coverage of Risks (FICORCA)
- Extra-CEDIs'
- Discounts and Rebates on Energy Used by the Float Glass Industry
- Article 94 Loans (Section II, Category 12, of the Banking Law) (formerly Encaje Legal)
- Fund for Industrial Development (FONEI)
- Guarantee and Development Fund for Small and Medium Industries (FOGAIN)
- Mexican Institute for Foreign Trade (IMCE)
- Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)
- National Preinvestment Fund for Studies and Projects (FONEP)
- Fondo Nacional de Fomento Industrial (FOMIN)
- Preferential State Investment Incentives
- Government Financed Technology Development
- Preferential Vessel, Freight, Terminal, and Insurance Benefits
- Acclerated Depreciation Allowance

We preliminarily determined that the Certificado de Devolucion de Impuesto (CEDI) program was suspended.

We preliminarily determined that we needed additional information about the preferential prices on natural gas used by the float glass industry.

In the notice containing our preliminary determination we also terminated the investigation and rescinded the initiation on the following two allegations, because we had determined in prior investigations that benefits under these programs are not countervailable:

- Preferential prices on natural gas used by domestic industries
- CEPROFIs for wage increases, and for investment in new Mexican-made capital equipment

On January 9–January 13, 1984, we conducted a verification in Mexico of the responses submitted by the Mexican government. Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views.

On February 22, 1984, Vitro Flotado, S.A., Vidrio Plano de Mexico, S.A., and the Department of Commerce signed a suspension agreement, as provided for by section 704 of the Act (49 FR 7264). Under the agreement, Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A. voluntarily renounced all countervailable benefits from the Mexican government under the two programs we verified to have conferred countervailable benefits to these companies during the period of investigation. While we verified that the CEDI rebate of indirect taxes has been suspended, we explicitly included the program, in case this program's status is changed by the Mexican government. The companies also agreed not to apply for or receive any new or substitute benefits.

Scope of Investigation

The product covered by this investigation is unprocessed float glass, which is currently imported under items 543.2100 through 543.6900 of the *Tariff Schedules of the United States Annotated* (TSUSA). This investigation covers unprocessed float glass, a type of flat glass produced by floating molten glass over a bed of molten tin.

Vitro Flotado, S.A. and Vidrio Plano de Mexico, S.A. are the only known producers, manufacturers or exporters in Mexico that export the subject product to the United States.

The period for which we are measuring bounties or grants is January 1 to September 30, 1983.

Analysis of Programs

Based upon our analysis of the petition, the response to our questionnaire, our verification, and written comments by interested parties, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of float glass under the programs listed below.

A. FOMEX

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. During the period for which we are measuring benefits, the fund was administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administered the financing of FOMEX loans through financial institutions which established contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank of Foreign Trade.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufacturerd must be included on a list made public by FOMEX; (2) the company must have majority Mexican capital; (3) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (4) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (5) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent, in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent.

One company received short-term pre-export financing at 8 percent from FOMEX for production of float glass for export to the United States during the period for which we are measuring bounties or grants. These interest rates are less than interest rates obtainable for comparable commercially available loans. Therefore, we determine that this program confers a bounty or grant upon the float glass industry.

To calculate benefits from these short-term peso-denominated loans we used as a benchmark for the commercial interest rate in Mexico the national average commercial rate for comparable short-term loans during the appropriate period. For this purpose, we chose the nominal rate published monthly by the Banco de Mexico in *Indicadores Economicos* (IE). This rate is the weighted average of the rates charged by commercial banks on short-term peso loans. We believe this benchmark rate is more accurate than that used in our preliminary determination, the average cost of funds to Mexican banks, Costo Porcental Promedio de Captacion (CPP),

plus 10 points, because the IE rate is based on actual short-term peso-denominated loans charged by banks, rather than the cost of funds to banks plus an unverified average spread used as the best information available. We used a nominal benchmark because our verification showed that the interest rate provided in the response was on a nominal basis. In addition, when we examined loan documents at the verification, we found no evidence of extra fees, compensating balances or interest payments due upon receipt of the FOMEX loans.

We allocated the amount of the benefits over the value of all exports of float glass to the United States. Exports were used because FOMEX financing is available only on export sales. On this basis, we calculated an *ad valorem* benefit of 1.52 percent.

B. CEPROFI

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investment in "priority" industrial activities; other are available to all industries on equal terms. For this reason, some types of CEPROFIs are countervailable, while others are not.

During verification, we verified that the company applied for and received CEPROFI benefits for increased capacity production, new investment in plant and equipment, and increased employment. Because these types of CEPROFIs are targeted to specify priority industries and/or regions of the country, we consider them countervailable. In 1982, the company was eligible for CEPROFI benefits, for which it filed applications with the Mexican government. The company recorded some of these CEPROFIs as income in its accounting records in the same year. After receipt of the CEPROFIs from the Mexican government in 1983, the company's accounting records were adjusted to reflect the difference between the amount applied for and the amount actually received. The Department considers the CEPROFIs to confer a benefit to the company on the date that they are granted by the Mexican government rather than the date the company applied for the CEPROFI benefits and entered the CEPROFIs in their account ledgers, particularly since the amount applied for may not be the same as the amount granted.

Because CEPROFIs confer a domestic bounty or grant, we allocated the CEPROFIs received in 1983 over the total sales of the two companies exporting float glass to the United States during the period of investigation, which resulted in a net bounty or grant of 1.02 percent *ad valorem.*

II. Program Determined Not To Confer Bounties or Grants

We have determined that bounties or grants are not being provided to manufacturers, producers or exporters in Mexico of float glass under the Trust Fund for Coverage of Risks (FICORCA).

During verification we learned that FICORCA is a trust fund set up by the Mexican government and the Bank of Mexico operating through the country's credit institutions. All Mexican firms with registered debt in foreign currency and payable abroad to Mexican credit institutions or to foreign financial entities or suppliers may purchase, at a controlled rate, the amount in dollars necessary to pay principal on the loan. All loans which are covered by the program must be long-term or be restructured on a long-term basis. The program was terminated December 20, 1982. Companies had until October 25, 1983, to register for the program. We verified that the float glass companies did not have any rescheduling of debt during our period of investigation. The float glass companies have not used the program. We also have verified documentation that the program is available to all Mexican firms with foreign indebtness; it is not targeted to a specific industry or enterprise, group of industries or enterprises, or to companies located in specific regions. FICORCA is also not tied in any way to exports. Therefore, we have determined this program is not countervailable.

III. Programs Determined Not To Be Used

We determined that the following programs have not been used by the Mexican float glass companies exporting to the United States.

A. Import Duty Reductions and Exemptions

Petitioner alleges that the Mexican government facilitates imports in certain priority sectors of the economy. Petitioner claims that, if at least one percent of the company's annual profits are used for research and the development of new technology, and the company exports a significant amount of its total production, the company can receive a 75 percent exemption of applicable duty on imports of machinery and equipment not available in Mexico if the imports will be used to produce capital goods. A 100 percent exemption is possible if the capital goods are considered high priority items by the Mexican government.

We verified that the float glass companies did not receive any type of import duty reductions or exemptions.

B. Extra-CEDIs

Petitioner alleges that export consortia may receive "extra-CEDIs," provided that they export manufactured goods, that the goods would have been eligible for a CEDI reimbursement, and that the export consortia had an approved export program. During verification we checked all known sources available to the Department concerning "extra-CEDIs." We verified that the float glass companies received no "extra-CEDIs." Further, we found no evidence of the existence of such a program.

C. Discounts and Rebates on Energy Used by the Float Glass Industry

Petitioner alleges that discounts on energy are provided by the Mexican government to qualified enterprises, including float glass companies, which are located in certain priority development regions established under the NDP.

Under certain conditions, the NDP allows 30 percent discounts on the cost of industrial energy or basic petrochemical products to firms located in Priority Zone 1A.

The NDP allows companies located in Priority Zone 1B that develop new industrial plants to receive a 30 percent discount on two of the following: electric power, natural gas, fuel oil or basic petrochemical products.

We verified from published prices by the Mexican government and company records that the float glass companies were not located in priority zones and that they did not receive energy at preferential prices.

D. Preferential Prices on Natural Gas Used by the Float Glass Industry

Petitioner also alleges that the float glass industry pays a price for natural gas lower than the average price for other industries. The Mexican government provided us with a published schedule of "Natural Gas Prices that are Generally Available to Industrial Users (January 1, 1982–December 31, 1983)." We verified that the float glass companies paid the published price for natural gas which

was available to all industries, and therefore received no benefit.

E. Article 94 Loans

This program was titled "Encaje Legal" in our preliminary determination. During verification it was learned that a more accurate title is "Article 94 Loans."

Under section II of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations (the Banking Law), the Bank of Mexico establishes channels of credit to different sectors of economic activity. There are 12 categories of credit under section II.

Most categories carry their own maximum interest rate, which is set by the Bank of Mexico. Loans granted under category 12 are targeted to exports of manufactured products. The maximum interest rate under this category is 8 percent.

We verified that the float glass companies did not receive Article 94 loans.

F. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term preferential credit for the creation, expansion or modernization of enterprises in order to foster the efficient production of industrial goods, the production of goods capable of competing in the international market, and industrial decentralization.

We verified that the float glass companies did not receive FONEI loans.

G. Guarantee and Development Fund for Small and Medium Industries (FOGAIN)

FOGAIN provides financing at interest rates below prevailing commercial rates to small- and medium-sized firms in Mexico. We verified that neither float glass company qualified for or received FOGAIN loans.

H. Mexican Institute for Foreign Trade (IMCE)

IMCE was created by a law published December 31, 1979, in the *Diario Oficial.* IMCE has as its purpose the promotion of the foreign trade of Mexico and the coordination of efforts stimulating foreign trade. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting visits of foreign trade missions to Mexico, carrying out investigations to identify national products or services which might be in demand abroad, and providing exporters with technical assistance. We verified that the float glass companies did not receive services offered by IMCE.

I. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN).

This program is aimed at the development of industrial parks and cities. We verified that the float glass companies did not receive any type of assistance under this program.

J. National Preinvestment Fund for Studies and Projects (FONEP)

The primary objective of FONEP is to assist firms to invest in economic feasibility studies. We verified that the float glass companies did not receive benefits under FONEP.

K. Fondo Nacional de Fomento Industrial (FOMIN)

FOMIN operates as a trust fund, providng funding to certain small- and medium-sized companies through stock acquisition or the provision of loans at rates below those of commercial lending institutions. We verified that the float glass companies did not receive benefits through FOMIN.

L. Preferential State Investment Incentives

It has been alleged in previous investigations that certain Mexican states offer industries partial or total exemption from state taxes, free or low-cost land, or certain local infrastructure improvements and incentives for establishing or expanding industrial facilities or incentives for exporting. We verified that the float glass companies did not receive any of these benefits.

M. Government Financed Technology Development

Petitioner alleges that the float glass industry received benefits under the Industrial Development Plan 1979–1982–1990 in the form of grants to purchase technological services for its new plants. We verified that the float glass companies did not receive such benefits.

N. Preferential Vessel, Freight, Terminal, and Insurance Benefits

It has been alleged in previous investigations that industries in Mexico have benefited from rebates or other discounts on transportation, storage, and insurance expenses involved in shipping products to the United States. We verified that the float glass companies did not receive such benefits.

O. Accelerated Depreciation

Under a company-specific decree dated November 5, 1975, certain producers or exporters may be eligible for accelerated depreciation of certain equipment (in which investment was made at that time and which still has a useful life). We verified that the float glass companies did not receive such benefits.

IV. Program Determined To Be Suspended

We determine that the following program has been suspended.

Certificado de Devolucion de Impuesto (CEDI)

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percent of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published on August 25, 1982, in the *Diario Oficial.* The order abrogates prior executive orders which contained the list of products eligible to receive CEDI certificates. Suspension of eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial.*

Before this program was suspended, the float glass companies did receive CEDI tax rebates. However, we verified that the CEDIs were used prior to our investigation and none remain outstanding. Therefore, we are not calculating a net bounty or grant for CEDIs received by the float glass industry before the suspension of this program.

If this program is subsequently reactivated, the Department will review its applicability in an administrative review under section 751 of the Act.

Comments

Petitioner's comments are as follows:

Comment 1

Petitioner argues that the Department should use a company-specific benchmark for calculating FOMEX loan benefits, in accordance with *Michelin Tire Corp.* v. *United States,* 6 CIT ——, Slip Op. 83–136 (Dec. 22, 1983).

DOC Position

During verification we examined the credit experience of the exporting companies. Based on the companies' short-term credit experience for the period under investigation, interest rates were comparable to or lower than the benchmark interest rate used for the same time period in this determination.

We consider our benchmark interest rate representative of short-term peso denominated loans in Mexico and the appropriate rate to which to compare FOMEX loans. As stated in the Subsidies Appendix to the final notice of the Affirmative Countervailing Duty (CVD) Determinations and CVD Order on Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina (49 FR 18006), we prefer to use a national average commercial rate for the benchmark for short-term loans. Short-term loans are usually not as risky for the lender because they often are secured by accounts receivable and are outstanding for a shorter period. Hence, we would not expect short-term rates to vary widely from the national average rate; there is little need for the lender to take into account thre risk characteristics of the firm. In addition, the judicial decision that petitioner cites in his comments is inapposite; references in the opinion to company-specific interest rates are pure *dictum* because the issue was not before the court in that case.

Comment 2

Petitioner argues that the Department should use an effective, rather than nominal, interest rate as the comparable commercial benchmark interest rate.

DOC Position

Our objective is to compare a comparable commercial loan (i.e., one with the same terms and conditions) to the preferential loan. Our verification showed that the FOMEX interest rate provided in the response was on a nominal basis. In this case, we have found no evidence of any fees, compensating balance, or interest payments due upon receipt of the FOMEX loans. Therefore, we believe that the nominal national average rate of interest published in the Mexican *Indicadores Economicos* is the appropriate commercial benchmark for these loans.

Comment 3

Petitioner argues that any "extra-CEDIs" granted to a Vitro group trading company and used to benefit exportation of float-glass are countervailable. Petitioner later alleged that the extra-CEDIs received by the trading company, Fomento Comercio Exterior, were designated as CEPROFIs after August, 1982.

DOC Position

Despite careful and sustained inquiry, during verification we found no evidence of any program known as "extra-CEDIs." We had no reason to examine Fomento Comercio Exterior's books, as it is not a company that manufacturers, produces or exports float glass. After our preliminary determinaiton, and after verification, we received petitioner's allegation that the "extra-CEDIs" granted to Fomento Comercio Exterior had been redesignated CEPROFIs and hence constituted an indirect countervailable benefit to the float glass companies. Although the allegation only remotely links the alleged benefit to the exportation of float glass, we will determine during the first section 751 review whether the trading company received CEPROFIs constituting countervailable benefits that are tied to exports of float glass to the United States.

Comment 4

Petitioner contends that, during the continuation of investigation, the Department should conduct a verification of Fomento Comercio Exterior to determine whether that trading company received any countervailable benefits attributable to the exportation of float glass from Mexico. The petitioner produced evidence which petitioner claims establishes that Fomento Comercio Exterior had received CEPROFIs and extra-CEDIs. Petitioner argues that the continuation of investigation has given the Department an opportunity to investigate these allegations. If they were investigated and borne out, petitioner additionally asserts that Fomento Comercio Exterior should be made a party to the suspension agreement.

DOC Position

We received petitioner's allegations that Fomento Comercio Exterior received CEPROFIs or extra-CEDIs too late to include them in our investigation. The allegation regarding CEPROFIs was made after our preliminary determination and verification. Petitioner submitted the evidence purporting to show that Fomento Comercio Exterior received CEPROFIs and extra-CEDIs after we had already entered into the suspension agreement with the float glass companies, *i.e.*, after the investigation would have been completed but for the suspension agreement. Although the statutory provision for continuing a suspended countervailing duty investigation, section 704(g) of the Act, does not explicitly provide a date for completion of the investigation, the public interest requires that there be a reasonably prompt conclusion to our investigation. Congress expressed its intent that the suspension agreement provisions be a means of expeditious resolution of coutervailing duty cases with minimal expenditure of resources by all parties. It would offend the public interest and the legislative purpose of the statute to use this provision to extend the duration or expand the coverage of an investigation to include new or newly supported allegations. This is particularly true where the benefit to the float glass companies is as indirect or remote as that alleged by the petitioner.

In any event, Fomento Comercio Exterior could not be required to be a party to the suspension agreement. Section 704(b) of the Act specifies that the Department may suspend an investigation if "exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation agree" to eliminate the subsidy. Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A., are the only known exporters. Fomento Comercio Exterior is not an exporter. Moreover, under the terms of the suspension agreement, Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A., renounce all benefits received both directly and indirectly prospective as well as presently enjoyed. Indirect benefits flowing through Fomento Comercio Exterior, if they exist, are effectively renounced in the suspension agreement.

Comment 5

Petitioner argues that our preliminary finding that Vitro Flotado did not receive CEPROFIs during the first nine months of 1983 is contradictory to the information presented in the petition.

DOC Position

In the questionnaire reponse, Vitro Flotado reported CEPROFIs based on the year the company was eligible to receive the certificates and recorded them as income in the company books. During verification we learned that the companies actually received a number of the CEPROFIs from the Mexican government during our period of investigation. We have calculated the countervailable benefits from CEPROFIs based on the date of float glass companies received tax certificates, not the dates they were recorded on the company books as income.

Comment 6

Petitioner argues that our determination not to initiate investigations of certain CEPROFIs is invalid because there is no evidence that the purpose for which CEPROFIs are granted in any way affects the way in which they are received and, in fact,

the purpose of the CEPROFIs is often not stated.

DOC Position

We have verified that Mexican companies in general must demonstrate that they have met certain requirements in order to apply for CEPROFI tax certificates, *e.g.*, proof of increased hiring submitted to show eligibility for CEPROFIs designated by the Mexican government for salary adjustments. Through verification we were satisfied that the float glass companies documented their compliance with CEPROFI application requirements and that the CEPROFIs were granted for specified purposes.

Comment 7

Petitioner contends that ITA should continue to monitor Vitro S.A.'s involvement in FICORCA.

DOC Position

We have verified that the exporting companies did not reschedule debt through FICORCA during the period of investigation. Further, we also determined that this program is not countervailable. If we learn of any new program for debt rescheduling, we will examine it during the subsequent section 751 administrative review.

Comment 8

Petitioner submitted information to show preferential prices given to the float glass industry for natural gas in 1981. Arguing that there is no information in the record to indicate that this price preference does not continue at least through the period of investigation, petitioner states that we must accept its information as the best available and find a countervailable benefit accordingly.

DOC Position

We verified, from published Mexican government price lists for natural gas purchased by Mexican industrial users and proof of payment supplied by the exporting companies, that the Mexican government did not grant preferential prices to the exporting companies during our period of investigation.

Respondent had no comments.

Verification

In accordance with Section 776(a) of the Act, we verified the information used in making our final determination. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). No timely request for a public hearing was received in this investigation. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

In the event the suspension agreement is violated or no longer satisfies the requirements of sections 704 (b) and (d) of the Act, the Department, in accordance with section 704(i) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of float glass and will issue a final countervailing duty order as required by section 704(i)(1) of the Act.

Dated: May 29, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-14871 Filed 6-1-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Correction of Proposed Additions

In FR Doc. 84-14066, appearing on page 22116, in the isue of Friday, May 25, 1984, make the following correction:

On page 22116, in the third column, under Class 8455, the second item should read, Air Force Commendation Medal, Regular, 8455-00-682-6480.

C. W. Fletcher,

Executive Director.

[FR Doc. 84-14858 Filed 6-1-84; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

In accordance with Office of Personnel Management guidance under the Civil Service Reform Act, the Commodity Futures Trading Commission is publishing the following list of its officials who will henceforth serve as the members of the Commission's Performance Review Board.

Chairperson: Molly G. Bayley, Executive Director

Andrea M. Corcoran, Director, Division of Trading and Markets

Dennis Klejna, Director, Division of Enforcement

Kenneth M. Raisler, General Counsel

Donald L. Tendick, Deputy Executive Director

Paula A. Tosini, Chief Economist.

Issued by the Commission is Washington, D.C. on May 29, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-14797 Filed 6-1-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

Pursuant to Pub. L 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m. 26 June 1984 in OSD Conference Room 1E801 #7, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, 27 June 1984 in OSD Conference Room 1E801 #7, the Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the recommendations/requests for information/continuing concerns made at the 1984 Spring Meeting, discuss current issues relevant to women in the Services, and plan the itinerary/program for the next Semiannual Meeting scheduled for 13-17 November 1984 in Pensacola, Florida.

Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Manpower, Installations, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697-2122 no later than 11 June 1984.

Dated: May 30, 1984

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-14820 Filed 6-1-84; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 3, 1984; Tuesday, July 10, 1984; Tuesday, July 17, 1984; Tuesday, July 24, 1984; and Tuesday, July 31, 1984 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Installations and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Dated: May 30, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-14319 Filed 6-1-84; 8:45 am]

BILLING CODE 3810-01-M

Establishment of the Secretary of the Navy Health Care Advisory Committee

Under the provisions of Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy Health Care Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department by law.

This committee will serve the public interest by functioning as an independent external source of expert knowledge, experience, and judgment in health care management and administration from which the Director of Naval Medicine and the Commander, Naval Medical Command can draw as required in the performance of their duties. Both officials will confer with the committee on operational initiatives to ensure that the Navy will accomplish its assigned health care, teaching, and research missions in the most cost effective way possible during the 1980s and beyond.

Dated: May 29, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-14510 Filed 6-1-84; 8:45 am]

BILLING CODE 3810-01-M

Military Traffic Management Command; Personal Property Program International Through Government Bill of Lading

AGENCY: Military Traffic Mangement Command, DOD.

ACTION: Notice of new proposed Certificate of Cargo Liability Insurance.

Reference: Federal Register Notice, April 23, 1984, Vol 49, No. 79, page 17068

SUMMARY: The new proposed certificate of cargo liability insurance as discussed at the Military Personal Property Symposium on May 3, 1984, modifies, to some extent, the Air Force proposal of April 24, 1984.

The "open policy" per shipment coverage is standardized for domestic and international at the lower coverage level. All coverages have been standardized with the exception of the "forwarders" per shipment coverage in the "open policy" which is dictated by the Interstate Commerce Commission as a minimum limit.

The new certificate will allow for a single insurance company to certify either "open policy" or "all risks" or a combination of both coverages.

This certificate standardizes coverages to the maximum extent possible and provides for protection needed by the military claims services while reducing the "open policy" per shipment coverage for domestic and international shipments for all classes of carriers. Comments/recommendations on this proposal are requested by June 21, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanie Bell, Military Traffic Management Command, ATTN: MT–PPQ, Washington, DC 20315.

Dated: May 30, 1984.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 84-14317 Filed 6-1-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Air Force

Military Justice Act of 1983 Advisory Commission; Public Meeting

The Military Justice Act of 1983 Advisory Commission will meet on Friday and Saturday, June 8–9, 1984, commencing each day at 7:30 a.m. in the Air Force Legal Services Center Courtroom, Room 5123, 1900 Half Street SW., Washington, D.C. The meetings will be open to the public.

The Commission will also meet on Friday and Saturday, June 29–30, 1984, commencing each day at 7:30 a.m. in the Air Force Office of Scientific Research Conference Room, building 410, Bolling Air Force Base, D.C. The meetings will be open to the public.

Anyone requiring additional information may contact the Commission Chairman, Colonel Thomas L. Hemingway, at 693–5770.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-14003 Filed 6-1-84; 8:45 am]

BILLING CODE 3910-01-M

Military Justice Act of 1983 Advisory Commission; Charter

The Military Justice Act of 1983 Advisory Commission, as chartered below, invites public comment in writing or personal appearance and testimony at the Commission's meetings in May, June and July, 1984.

All communications pertaining to this notice should be directed to the

Commission Chairman, Colonel Thomas L. Hemingway, HQ USAF/JAJM, 1900 Half Street SW., Washington, D.C. 20324, telephone (202) 693-5770.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

Charter—

Military Justice Act of 1983 Advisory Commission

A. *The Commission's Official Designation:* Military Justice Act of 1983 Advisory Commission.

B. *The Commission's Objectives and Scope of its Activities:* To study and provide recommendations concerning:

Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

Whether military judges and the Court of Military Review should have the power to suspend sentences.

Whether the jurisdiction of the special court-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and what, if any, changes should be made to current appellate jurisdiction.

Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

Whether the United States Court of Military Appeals should be an Article III court under the U.S. Constitution.

C. *Period of Time Required:* The Commission must render its final report by September 1, 1984.

D. *Officials to Whom the Commission Reports:* The Commission reports its findings and recommendations, in writing, to the Committees on Armed Services of the Senate and the House of Representatives, and to the Code Committee.

E. *Composition of the Commission:* The Commission will consist of nine (9) members appointed by the Secretary of Defense. Of the nine, six (6) shall be governmental persons whose primary experience has been in the field of military justice. One of these members may be a designee from the staff of the U.S. Court of Military Appeals. At least three (3) members will be civilians appointed from private life who are recognized authorities in military justice or criminal law.

F. *The Agency Responsible for Providing the Necessary Support for the Commission:* United States Air Force.

G. *A Description of the Duties for Which the Commission is Responsible:* The Commission shall study and prepare a comprehensive report in support of its recommendations on the matters set forth in paragraph B above. The report shall include the Commission's findings and comments on the following matters:

(1) The experience in the civilian sector with jury sentencing and judge-alone sentencing, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, and impact on the rights of the accused.

(2) The potential impact of mandatory judge-alone sentencing on the Armed Forces, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, impact on the rights of the accused, effect on the participation of members of the Armed Forces in the military justice system, impact on relationships between judge advocates and other members of the Armed Forces, and impact on the perception of the military justice system by members of the Armed Forces, the legal profession, and the general public.

(3) The likelihood of a reduction in the number of general court-martial cases in the event the confinement jurisdiction of the special court-martial is expanded; the additional protections that should be afforded the accused if such jurisdiction is expanded; whether the minimum number of members prescribed by law for a special court-martial should be increased; and whether the appellate review process should be modified so that a greater number of cases receive review by the military appellate courts, in lieu of legal reviews presently conducted in the offices of the Judge Advocates General and elsewhere, especially if the commission determines that the special court-martial jurisdiction should be expanded.

(4) The effectiveness of the present systems for maintaining the independence of military judges and what, if any, changes are needed in these systems to ensure maintenance of an independent military judiciary, including a term of tenure for such judges consistent with efficient management of military judicial resources.

H. *The Commission's Chairman:* The United States Air Force Representative will serve as Chairman of the Commission.

I. *The Estimated Annual Operating Costs:* In dollars, costs of travel, per diem, and all costs associated with Commission functions and administrative support, should not exceed $20,000. Manyears should equate to approximately 2.

J. *The Estimated Number and Frequency of Commission Meetings:* Approximately 6, bi-monthly.

K. *The Commission's Termination Date:* September 1, 1984.

[FR Doc. 84-12486 Filed 5-8-84; 8:45 am]

BILLING CODE 3910-01-M

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Amendment of Air Force Systems of Records Notice.

SUMMARY: The Air Force is amending 1 system of records notices. The change is summarized below and the rewritten notice.

EFFECTIVE DATE: The amendment will be effective July 5, 1984, unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C., telephone: 202/694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93-579; 44 Stat. 1896 *et seq.*) has been published in the Federal Register as follows:

FR Doc. 82-30348 (47 FR 50004) November 4, 1982

FR Doc. 83-1956 (48 FR 4106) January 28, 1983

FR Doc. 84-15 (49 FR 702) January 5, 1984

This change does not require an altered system report under 5 U.S.C. 552a(o).

May 30, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

AMENDMENTS

F035 AF MP C

SYSTEM NAME:

Military Personnel Records System (48 FR 4141).

CHANGE:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In line 53, after "verification of service," add, "Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur."

System F035 AF MP C reads as follows:

F035 AF MP C

SYSTEM NAME:

035 AF MP C Military Personnel Records System.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Headquarters of the major commands and separate operating agencies. At consolidated base personnel offices and other installation units. At State Adjutant General Office of each respective State, District of Columbia or Commonwealth of Puerto Rico. At Air Force Reserve and Air National Guard units. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC); Headquarters United States Air Force (HQ USAF) Selection Record Group (SR) at HQ USAF Assistant for General Officer Matters; Retired Air Force general officers. Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for Senior Officer Management, C&M at AFMPC Air Force active duty officer personnel. MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency, Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBPO): Air Force active duty enlisted personnel. MPeRGp at AFMPC, FRGp at respective servicing CBPO, Senior Noncommissioned Officer (NCO) Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List (TDRL) status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls (DFR), MPeRGp at AFMPC; Reserve officers MPeRGp at Air Reserve Personnel Center (ARPC), OCSR at the respective Air Force (AF) major command (MAJCOM) when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRPO); Reserve airmen MPeRGp at ARPC, FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSR at the respective State Adjutant General Office, FRGp at the respective unit of assignment, ANGUS airmen MPeRGp at the respective State Adjutant General Office FRGp at the respective unit of assignment; Retired Air Force military personnel; Discharged personnel MPeRGp at National Personnel Records Center (NPRC); Air Force Academy cadets MPeRGp at unit of assignment CBPO. System contains substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS; enlistment/reenlistment/extension of enlistment; assignment Permanent Change of Station (PCS)/Temporary Duty (TDY); promotion/demotion; identification card requests; casualty; duty status changes—Absent Without Leave (AWOL)/MIA/POW/Missing/Deserter; military test administration/results; service dates; separation; discharge; retirement; security; training, Precision Measurement Equipment (PME), On-The-Job Training (OJT), Technical, General Military Training (GMT), commissioning, driver; academic education; performance/effectiveness reports; records corrections—formal/informal; medical or dental treatment/examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proceedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Career Reserve applications/cancellations; traffic safety; Unit Military Training; travel voucher for TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention cards; drug abuse; Federal Insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs; Personnel Data System products.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by; implemented by Air Force Regulation 35-55, Military Personnel Records System.

PURPOSE(S):

Military Personnel Records are used at all levels of Air Force personnel management within the agency: for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Compensation claims submitted to Veterans Administration Regional Offices; dependents and survivors requesting issuance or determination of eligibility for identification card privileges; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligibility and benefits requests—copies are provided to CHAMPUS, Denver, Co: Immigration and Naturalization—copies are provided to respective local Immigration Office; Unemployment Compensation Requests—verfication of service related information provided to State Unemployment Compensation (UCX) Office; Vietnam State Bonus—information provided to respective local State offices; Civil Service requests for verification of military service for benefits; leave or Reduction in Force (RIF) purposes—Worldwide locator inquiries; Dual compensation cases involving former officers—provided to establish Civil Service employee tenure and leave accrual rate; Social Security Retirement Credit Verification—verification of service data provided to substantiate applicant's credit for Social Security compensation; Soldiers and Sailors Civil Relief Act requests—verification of service—Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces; information as to last known residential or home address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may

incur. Information is provided to the US Department of Agriculture for investigative and audit procedures Separation information provided to the Veterans' Administration and Selective Services Agencies. American National Red Cross—information to local Red Cross offices for emergency assistance to military members, dependents, relatives or other persons if conditions are compelling. Department of Labor, Bureau of Employees' compensation—medical information for claims of civilian employees formerly in military services; Employment and Training Administration—verification of service-related information for unemployment compensation claims; Labor Management Services Administration for investigations of possible violations of labor laws and pre-employment investigations; National Research Council—for medical research purposes; U.S. Soldiers' and Airman's Home—service information to determine eligibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, placed in metal file containers or on open shelves. Microfiche placed in rotary power files; computer disk resident data file consists of Social Security Number (SSN) and disk location of the associated image record which includes document data describing document type, date, location, and number of pages in each document.

RETRIEVABILITY:

Information in the system is retrieved by last name, first name, middle initial and Social Security Number (SSN). Records stored at National Personnel Records Center are retrieved by registry number, last name, first name, middle initial and SSN.

SAFEGUARDS:

The prescribing directive for the Military Personnel Records System requires those records to be stored (after duty hours) in a locked building, room or filing cabinets. Access is specifically limited to those personnel designated by the Consolidated Base Personnel Office (CBPO) Chief and those provisions for access and release of information contained in Air Force Regulation 12-35 and 31-4.

RETENTION AND DISPOSAL:

Users who are granted access to the microfische files are screened by computer software. Those documents designated as Temporary in the prescribing directive remain in the records until their obsolescence (superseded, member terminates status, or retires) when they are removed and provided to the individual data subject. Those documents designated as Permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy: Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

The individual data subject may be notified that a record exists on him by submitting a request to or appearing in person at the responsible official's office or the respective repository for records for personnel in particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. Response to written requests will be provided not later than ten days following receipt of request. The System Manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas.

RECORD ACCESS PROCEDURES:

The same written notification or personnel visit procedures which apply to notification also apply to access.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Sources of information contained in the system include data subject's applications, requests, personal history statements, supervisors' evaluations, correspondence generated within the agency in the conduct of official business, medical treatment records, educational institutions, civil authorities, other service departments, and interface with the Personnel Data System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-14822 Filed 6-01-84; 8:45 am]
BILLING CODE 3910-01-M

Defense Logistics Agency

Privacy Act of 1974; Notice for a New System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice for a new system of records.

SUMMARY: The Defense Logistics Agency proposes to add a notice for a new system of records to its inventory of notices for systems of records subject to the Privacy Act of 1974. The new notice is set forth below.

DATE: The new system will be effective July 5, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: Mr. Preston B. Speed, Chief, Administrative Management Branch, Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Tel: (202) 274-6234.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Speed at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1984, as amended (5 U.S.C. 552a), have been published previously in the Federal Register. A new system report as required by 5 U.S.C. 552(a)(o) was submitted on April 4, 1984.

May 30, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

S322.53 DLA-LZ

SYSTEM NAME:

Defense Debt Collection Data Base.

SYSTEM LOCATION:

Primary Location: W. R. Church Computer Center, Naval Postgraduate School, Monterey, California 93940.

Back-up files maintained at the Defense Manpower Data Center, Location 2nd Floor, 550 Camino El Estero, Monterey, California 93940.

Decentralized segments—military and civilian payment and personnel centers of the services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel, members of reserve components, retired military personnel and survivors and deceased military personnel, Federal civilian employees, and contractors who

have been identified as being indebted to the United States Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Account Number, debt principal amount, interest and penalty amount (if any), debt reason, debt status, demographic information such as grade or rank, sex, date of birth, location, and various dates identifying the status changes occurring in the debt collection process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and Pub. L. 97-365, "Debt Collection Act of 1982".

PURPOSE:

The purpose of the system of records is to provide the Department of Defense (DoD) with a central record of all debts and debtors either under current or past financial obligation to the United States Government to control and report on the debt collection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Non-DoD Federal Agencies—Records of debtors obligated to DoD, but currently employed by another Federal agency will be referred to the employing agency under the provisions of the Debt Collection Act of 1982 for collection of the debt. Records of debtors employed by DoD, but obligated to another Federal agency will be released to the other agency upon collection of the debt.

Internal Revenue Service—Record maybe referred to obtain home address.

Office of Personnel Management—Records maybe referred to obtain current employment location.

Credit Bureaus and Debt Collection Agencies—Records may be referred to private contract organizations to comply with the provisions of the Debt Collection Act of 1982 for non-payment of a outstanding debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape.

RETRIEVABILITY:

Records are retrieved by social security number and name from a computerized index.

SAFEGUARDS:

Primary location—At W.R. Church Computer Center, tapes are stored in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up location in Monterey, California, tapes are stored in rooms protected with cypher locks, building is locked after hours, and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Records are retained indefinitely as a financial record.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, California 93940.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests for information should contain the full name, social security account number, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The record accuracy may be contested through the administrative processes contained in Pub. L. 97-365, "Debt Collection Act of 1982".

RECORD SOURCE CATEGORIES:

The military services and any other Federal agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-14324 Filed 6-1-84; 8:45 am]

BILLING CODE 3820-01-M

Department of the Navy

Privacy Act of 1974; Amendment to the Notice for a system of Records

AGENCY: Department of the Navy, DOD.

ACTION: Amendment to the notice for a system of records.

SUMMARY: The Department of the Navy proposes to amend the notice for a system of records subject to the Privacy Act of 1974. The system notice as amended is set forth below.

DATE: The amendment will be effective July 5, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to the Systems Manager identified in the systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitkens, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-03B30), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: 202/694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy notices for systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been published in the Federal Register. (48 FR 26929) June 6, 1984.

An altered system report as required by 5 U.S.C. 552a(o) was submitted on February 1, 1984.

May 30, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

N07220-7

SYSTEM NAME:

Travel Pay System (48 DR 26137) June 6, 1983.

CHANGES:

SYSTEM LOCATION:

In line 6, change "(NCF-3)" to "(NAFC-44)".

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the entire entry and substitute with the following: "Public vouchers; substantiating documents such as travel orders and expense receipts; card file or log book; automated records stored on magnetic program cards, tapes, disks, drums or punched cards utilized to control receipt and disposition of travel claims; suspense files, pay adjustments authorization, and payroll checkages utilized for control and follow-up on travel advances; debtor information records; and correspondence relating thereto".

PURPOSE(S):

Add the following paragraph: "By officials and employees of the Department of the Navy to reimburse any person, government or private, for travel expenses and to record, account and report for government funds. To provide a historical file and audit trail for travel payments made by the Navy; to provide a means to respond to inquiries from travelers on status of claims; to control travel advances to ensure liquidation; and to provide a means for collection in cases of overadvances".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete the entire entry and substitute with the following: "The blanket routine uses that appear at the beginning of the

Department of the Navy's compilation apply to this system".

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Add caption and insert:

"Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(b)(12)), debtor information may be released to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (341 U.S.C. 3701(a)(3))".

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete the entire entry and substitute with the following: "Records are maintained on magnetic program cards, disk, tape, hard copy forms, paper records in file folders, index cards or log books".

RETRIEVABILITY:

Delete the entire entry and substitute with the following: "Travel claims which are computed with automatic data processing equipment are retrieved by disbursing office voucher number and SSN. Card index files and log books are retrieved by name and SSN".

SAFEGUARDS:

Delete the entire entry and substitute with the following: "The safeguards in the automated system include the following controls: (1) Physical access to video display terminals is under strict supervisory control, (2) access to the computer peripheral equipment, program cards, tapes and disk storage is strictly controlled, (3) individual user identification codes and passwords are used to control access to automated records, (4) reports are issued that are used to help monitor the system to determine individuals who are accessing data, (5) output products and storage media are stored in locked cabinets or rooms with building or military base security, (6) positive identification is established prior to releasing personal information to an individual, and (7) output products and storage media are labeled to warn individuals that they contain personal information subject to the Privacy Act (e.g., Personal Data—Privacy Act of 1974). Access is authorized to personnel engaged in travel claim processing, supervisory or management personnel, and inspectors, autditors, investigators. Travelers are authorized access to their own travel records: fund administrators are authorized access to records pertaining to their own funds".

RETENTION AND DISPOSAL:

Delete the entire entry and substitute with the following: "The automated record is retained no longer than one year following the final settlement of a travel claim. Records recorded on magnetic program cards, tapes, disks, and drums will be disposed of by degaussing or erasing. A history/inactive hard copy file is maintained no longer than four years. Records may be moved to a regional Federal Record Center depending on local storage capability".

SYSTEM MANAGER(S) AND ADDRESS:

Delete the entire entry and substitute with the following: "Commander, Navy Accounting and Finance Center, (Code NAFC–44), Washington, DC 20376. A list of the Navy disbursing offices is available from the Systems Manager".

RECORD SOURCE CATEGORIES:

Delete the entire entry and substitute with the following: "Travel advances and travel claims are filed by individuals who provide information (name, SSN, etc.) on themselves. Supporting documentation is obtained from the associated travel order, employing commands, service providers (e.g., receipts for taxis), and Navy disbursing offices".

The amended portion of System No. 7220–7 reads as follows:

SYSTEM NAME:

Travel Pay System.

CHANGES:

SYSTEM LOCATION:

Decentralized, maintained by Navy disbursing offices; a list is available from: Commander, Navy Accounting and Finance Center (NAFC–44), Washington, DC 20376.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Public vouchers; substantiating documents such as travel orders and expense receipts; card file or log book; automated records stored on magnetic program cards, tapes, disks, drums or punched cards utilized to control receipt and disposition of travel claims; suspense files, pay adjustments authorization, and payroll checkages utilized for control and follow-up on travel advances; debtor information records; and correspondence relating thereto.

* * * * *

PURPOSE(S):

By officials and employees of the Department of the Navy to reimburse any person, government or private, for travel expenses and to record, account and report for government funds. To provide a historical file and audit trail for travel payments made by the Navy; to provide a means to respond to inquiries from travelers on status of claims; to control travel advances to ensure liquidation; and to provide a means for collection in cases of over advances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The blanket routine uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(b)(12)), debtor information may be released to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (341 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic program cards, disk, tape, hard copy forms, paper records in file folders, index cards or log books.

RETRIEVABILITY:

Travel claims which are computed with automatic data processing equipment are retrieved by using the SSN. Manually computed travel claims are retrieved by disbursing office voucher number and SSN. Card index files and log books are retrieved by name and SSN.

SAFEGUARDS:

The safeguards in the automated system include the following controls: (1) Physical access to video display terminals is under strict supervisory control, (2) access to the computer peripheral equipment, program cards, tapes and disk storage is strictly controlled, (3) individual user identification codes and passwords are used to control access to automated records, (4) reports are issued that are used to help monitor the system to determine individuals who are accessing data, (5) output products and storage media are stored in locked cabinets or rooms with building or military base security, (6) positive identification is established prior to releasing personal information to an individual, and (7) output products and storage media are

labeled to warn individuals that they contain personal information subject to the Privacy Act (e.g., Personal Data—Privacy Act of 1974). Access is authorized to personnel engaged in travel claim processing, supervisory or management personnel, and inspectors, auditors, investigators. Travelers are authorized access to their own travel records: fund administrators are authorized access to records pertaining to their own funds.

RETENTION AND DISPOSAL:

The automated record is retained no longer than one year following the final settlement of a travel claim. Records recorded on magnetic program cards, tapes, disks, and drums will be disposed of by degaussing or erasing. A history/inactive hard copy file is maintained no longer than four years. Records may be moved to a regional Federal Records Center depending on local storage capability.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Navy Accounting and Finance Center, (Code NAFC–44), Washington, DC 20376. A list of the Navy disbursing offices is available from the Systems Manager.

* * * * *

RECORD SOURCE CATEGORIES:

Travel advances and travel claims are filled by individuals who provide information (name, SSN, etc.) on themselves. Supporting documentation is obtained from the associated travel order, employing commands, service providers (e.g., receipt of taxis), and Navy disbursing offices.

* * * * *

[FR Doc. 84–14318 Filed 6–1–84; 8:45 am]
BILLING CODE 3810–01–M

Permanent Disposal of Decommissioned, Defueled Naval Submarine Reactor Plants; Availability of Final Environmental Impact Statement

The Department of the Navy has prepared a Final Environmental Impact Statement (EIS) to assess the environmental implications of alternatives that could be used to permanently dispose of decommissioned, defueled submarine reactor plants.

In accordance with the Council on Environmental Quality regulations for compliance with the National Environmental Policy Act (NEPA) (40 CFR Part 1501), the Department of the Navy served as the lead agency for preparation of the EIS. The Department of Energy (DOE) participated as a cooperating agency with regard to the alternative of land disposal at DOE burial sites. By participating as a cooperating agency, DOE obligations under NEPA are fulfilled and no separate DOE EIS is required.

With over 100 nuclear-powered submarines in operation, the Navy is faced with eventual decommissioning of these ships at a future rate of possibly 3 to 4 per year over the next 30 years, and a permanent means of disposal must be developed that is environmentally acceptable. Following decommissioning, the submarines do not contain nuclear fuel, transuranic elements, or high-level radioactive material. They will, however, contain low-level radioactive material resulting from the operation of the reactors while the submarines were in commission.

The two basic methods for permanent disposal are land disposal and sea disposal. Permanent disposal can be achieved by removal of the submarine compartment that contains the defueled reactor, followed by shipment of the compartment by barge and overland transporter to either of two accessible Federal land burial sites used by the Department of Energy for burial of low-level radioactive waste. These sites are in Washington State (Hanford Site) and in South Carolina (Savannah River Plant). The remainder of the submarine which contains no radioactive material, would either be disposed of by sinking it at sea or by cutting it up for sale as scrap metal. Radiation levels associated with the entire operation would meet applicable requirements of the Department of Transporation, Nuclear Regulatory Commission, and Department of Energy for transportation and disposal of solid low-level radioactive material. Alternatively, permanent disposal of the defueled submarine reactor plants could be achieved by sinking the submarines in a deep ocean location that would be designated by the United States Environmental Protection Agency. Specific sites for sea disposal have not been proposed and a site-specific evaluation would be required prior to designation of a sea disposal site.

An alternative for temporary storage of these defueled submarine reactor plants would be to place each submarine in protective floating storage in a Navy facility for an extended period. This would allow radioactive material to decay under controlled conditions without release to the environment. However, this alternative would lead to other impacts and only postpone the decision for ultimate disposal, requiring the decision to be made sometime in the future. For this reason, this alternative is regarded as the no-action alternative because it represents the minimum action the Navy must take to ensure that the decommissioned submarines would be maintained without hazard to people or the environment. No other practical alternatives are known to exist for the final disposition of the reactor plants.

Impacts assessed for each disposal alternative include expected commitment of resources, land use, transportation requirements, and environmental consequences, including occupational radiation exposure due to disposal activities, and possible radiation exposure to the public during and after transportation and dispoal. The impact of radioactive material releases due to unexpected occurrences is also assessed. For each alternative considered, an assessment of the impact on the environment in the vicinity of disposal sites has been performed. The EIS also includes information on the costs of the disposal alternatives.

The Draft Environmental Impact Statement was published on December 22, 1982 and was widely circulated. Over 1500 copies of the draft statement were distributed to individuals, environmental organizations, state and local officials, and other Federal agencies. Over six months were allowed for interested parties to comment on the Draft EIS. More than 500 letters were received providing comments. The Navy held four public hearings in different parts of the country at which over 150 people presented statements. All substantive comments received by the Navy were analyzed and are addressed in the final statement.

The Navy considers that permanent disposal would be environmentally safe and feasible using either the land burial or deep ocean option. There are no technical obstacles which would prevent successful disposal or environmental monitoring for either permanent disposal option. The highly conservative estimates used in the analyses of impacts have amply compensated for any uncertainties that may exist in man's knowledge relative to the impacts for either disposal option. No unacceptable environmental impacts associated with either option have been identified as a result of the analyses or through the public review process.

Since the Navy began its evaluation of disposal options, several developments associated with possible ocean disposal of low-level radioactive waste have occurred. These include Congressional action in December 1982 restricting the issuance of ocean disposal permits and requiring Congressional approval before

any such permit may be issued by the EPA. In addition, the EPA has indicated additional regulations may be required before EPA could evaluate a permit request. In view of these and other related uncertainties associated with national acceptance of the ocean disposal option, the Navy considers that allocation of additional funds to pursue this option further is not warranted.

Based on a consideration of all current factors bearing on a disposal action of the kind contemplated, the Navy's preferred alternative at this time is to dispose of the reactor compartments by land burial. Land burial is the method currently used in the United States for disposal of low-level radioactive waste and this disposal action would comply with existing requirements for use of the government burial grounds. This approach will allow permanent disposal of this form of low-level radioactive material to proceed with no unacceptable environmental impacts. With most of the submarines to be decommissioned on the West Coast of the United States, it is expected that the government burial ground to be used in the near future will be the low-level radioactive waste disposal site at Hanford in Washington State.

Copies of the Final EIS have been sent to those individuals, organizations, state and local officials, and agencies whose comment letters were received by the Navy or who presented statements at public hearings. Copies were also sent to various elected representatives and to federal and state agencies which are interested in the general subjects covered in the final EIS. Copies are available for inspection at the following locations:

Public Documents Room, Federal Building (Science Center), Richland Operations Office, 825 S. Jadwin Avenue, P. O. Box 550, Richland, WA 99351, Phone: 509-376-7411

U.S. Department of Energy, Public Reading Room, 211 York Street, N.E., Aiken, SC 29801

Public Documents Room, U.S. Department of Energy, Forrestal Building, Room 1E090, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone: 202-252-5575

Requests for single copies of the EIS should be in writing to: Captain Norman Mims, U.S. Navy, Office of the Chief of Naval Operations (OPNAV-22), Department of the Navy, Washington, D.C. 20350, Telephone: 202-697-1961.

For general information on the Navy EIS process contact: Mr. Edward W. Johnson, Office of the Chief of Naval Operations (OPNAV-45), Department of the Navy, Washington, D.C. 20350, Telephone: 202-433-2426.

Dated: May 31, 1984.

William F. Roos, Jr.,

LT, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-14979 Filed 6-1-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

Civilian Radioactive Waste Management; Briefing on Draft Mission Plan, June 8, 1984

Notice is hereby given that the Office of Civilian Radioactive Waste Management is providing a briefing for the 17 Crystalline Repository Program States on the subject of the April 1984 draft Mission Plan for the Civilian Radioactive Waste Management Program. A briefing will also be given on the revised Siting Guidelines sent to the Nuclear Regulatory Commission for concurrence on May 14, 1984. The briefing will be held on June 8, 1984, at the U.S. Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Washington, D.C. 20585, in Room GJ-015 from 9:00 a.m. to 2:00 p.m.

Topics covered during the briefing will include:

- Opening Remarks and Mission Plan Overview
- Geologic Repository Deployment, Volumes I and II of the Mission Plan
- Transportation and Storage (MRS, FIS)
- Waste Fund and Related Activities
- Siting Guidelines

For further information, contact Giner King at (202) 252-6842.

Issued at Washington, D.C. on May 31, 1984.

Michael J. Lawrence,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 84-15117 Filed 6-1-84; 11:24 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42039A; TSH-FRL 2578-2]

Bis(2-Ethylhexyl) Terephthalate; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the Federal Register of November 14, 1983, EPA announced a preliminary decision not to initiate rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of bis(2-ethylhexyl) terephthalate (DOTP) [CAS No. 6422-86-2] pending consideration of public comments on a testing proposal submitted to EPA by the Eastman Kodak Company. No public comments were received and the Agency finds no reason to alter its preliminary decision and is not proposing a section 4(a) rule to require environmental or health effects testing of DOTP at this time.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of November 14, 1983 (48 FR 51845), the Agency announced a preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of bis(2-ethylhexyl) terephthalate (DOTP). This decision was based on the evaluation of the existing data on DOTP, the expected exposure pattern for DOTP and the Agency's tentative acceptance of a comprehensive testing proposal submitted by the Eastman Kodak Company.

A draft of Eastman Kodak's testing proposal, which contained many of the protocols, was included in the public record (docket number OPTS-42039). The Agency requested comments on both its tentative decision not to require testing of DOTP and on the proposed testing program.

II. Summary of Ongoing and Planned Testing Program

The Eastman Kodak Company has presented to EPA a proposal for testing DOTP for health effects, environmental effects, and chemical fate. The tests will be modeled after the TSCA testing guidelines. Eastman Kodak has provided the Agency with preliminary laboratory selection information and a proposed testing schedule, predicated on final program acceptance by the Agency in June, 1984. The Eastman Kodak Company's proposal for DOTP includes the following tests:

1. *Mutagenicity.* The Chromosomal Aberration test and the Chinese

Hamster Ovary Hypoxanthine Guanine Phosphoribosyl Transferase Forward Mutation Assay (CHO/HGPRT) are the mutagenicity tests that Eastman Kodak Company proposes to perform. These studies are scheduled to begin in July, 1984, with the final reports submitted to the Agency in February, 1985. The Eastman Kodak Company has already performed an Ames *Salmonella*/Microsome Assay with and without activation as part of its battery of tests for investigating the potential mutagenicity of DOTP.

2. *Chemical disposition and metabolism.* The Eastman Kodak Company has in progress an *in vivo* metabolism study on DOTP. Furthermore, the NTP/NCI bioassay program has nominated a large number of chemicals that contain the ethylhexyl moiety (as does DOTP) to determine their metabolic-toxicologic profiles. On February 6, 1984, the Eastman Kodak Company submitted to the Agency final reports on the mutagenicity of urinary metabolites and the *in vitro* metabolism of DOTP. The anticipated completion date for the *in vivo* metabolism study is May, 1984.

3. *Subchronic effects testing.* A 90-day subchronic feeding study will be performed by Eastman Kodak Company. This study will include histopathology examinations of major organs and neurological tissue, full clinical chemical and hematological examinations and an evaluation of potential peroxisomal proliferation. The 90-day feeding study will begin in September, 1984 and be concluded with the submisson of a final report by August, 1985.

4. *Acute and chronic toxicity to fish and aquatic invertebrates and bioconcentration.*

The Eastman Kodak Company has completed the following studies on the acute aquatic toxicity of DOTP: 96-hour LC_{50} for DOTP for fathead minnows and kelisoma snails. They also intend to perform a 2-week dynamic LC_{50} test for rainbow trout, a 96-hour EC_{50} value for oyster shell deposition, a 77-day rainbow trout embryo-larval study and an oyster bioconcentration study. The bioconcentration factor for DOTP will be determined in oysters using 14 c-labeled DOTP. The acute rainbow trout, and acute oyster studies will be initiated in March 1985. Final reports from these investigations will be available in July, 1985. The rainbow trout embryo-larval study and the oyster bioconcentration test will begin in July, 1985 and the final report will be submitted in March, 1986.

5. *Toxicity to plants.* The Eastman Kodak Company will conduct seed germination and early plant growth tests for DOTP. These tests will begin in March, 1985 with the final reports available in July, 1985.

6. *Chemical fate.* The physico-chemical properties and chemical fate tests that Eastman Kodak Company will conduct include the development of a sensitive analytical method for determining the concentration of DOTP in water; determination of DOTP's octanol-water partition coefficient and water solubility; and a shake flask biodegradation test. Analytical methodology development will begin in July, 1984, with the final report being available in November, 1984. Using that method, the water solubility and octanol/water partition coefficient determinations will then begin and final reports will be submitted to the Agency in March, 1985. The biodegradation study will be initiated in March 1985 with the final report completed in July 1985.

III. GLP's and Other Provisions

Eastman Kodak has agreed to adhere to the Good Laboratory Practice Standards promulgated by the U.S. Environmental Protection Agency as published in the Federal Register of November 29, 1983 (48 FR 53922). Eastman Kodak Company has also agreed to permit laboratory inspections and study audits in accordance with the provisions outlined in TSCA section 11 at the request of authorized representatives of the EPA for the purpose of determining compliance with this agreement. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practice provisions.

Eastman Kodak Company has further agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained for at least 10 years from the date of publication of the acceptance of any protocols by EPA and made available during an inspection or submitted to EPA if requested by EPA or its designated representative. Eastman Kodak understands that the Agency plans to publish quarterly in the Federal Register a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Eastman Kodak Company understands that failure to conduct the testing according to the specified protocols and failure to follow Good Laboratory Practice procedures may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or require further testing. Also, should Eastman Kodak Company fail to make a good faith effort to adhere to its testing program outlined above, EPA may initiate rulemaking to require testing.

IV. Public Comment on Eastman Kodak's Proposed Testing Program

The Agency has received no public comment on either its proposed decision not to test DOTP or on Eastman Kodak's proposed testing scheme for this chemical.

V. Decision To Adopt Negotiated Testing Program

The Agency currently believes that this testing program will provide sufficient data to reasonably determine or predict the health and environmental effects of DOTP and is adopting this negotiated testing program. Depending on the results of the preliminary data review in this negotiated testing agreement, the Agency may determine that additional health and environmental effects tests should be conducted. If having evaluated the data developed during the negotiated testing program, the Agency determines that additional testing should be conducted, EPA reserves the right to propose a test rule to obtain the additional test data.

VI. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 [docket number OPTS-42039]. This record includes:

(1) Federal Register notice designating DOTP to the priority list (47 FR 54624) and all comments on DOTP received in response to that notice.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) Federal Register notice requesting comment on the negotiated testing proposals and comments received in response thereto (48 FR 51845).

The record, containing the basic information considered by the Agency in developing this decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, in Room E-107, 401 M St. SW., Washington, DC 20460. The Agency will

supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: May 28, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-14826 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42002A; TSH-FRL 2563-4]

Fluoroalkenes; Proposed Decision To Adopt a Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), in its Seventh Report, designated a group of six fluoroalkenes as a category of chemicals for health effects testing. On October 30, 1981, EPA published an Advance Notice of Proposed Rulemaking (ANPR), indicating that the Agency was initiating rulemaking to require testing of certain fluoroalkenes under section 4(a) of the Toxic Substances Control Act (TSCA) and proposing not to test 3,3,3-trifluoro-1-propene. The Fluoroalkenes Industry Group (FIG), manufacturers of vinyl fluoride, vinylidene fluoride, tetrafluroethene, and hexafluoropropene, responded to the ANPR by submitting unpublished test reports, exposure studies, and plans for further testing. Based on Agency evaluation of these submissions, EPA has tentatively decided to accept industry's proposed testing program and to discontinue the rulemaking initiated in the ANPR. Interested persons are invited to comment on this decision. In addition, in this notice the Agency finalizes its tentative decision not to require testing of 3,3,3-trifluoro-1-propene and announces a decision not to require testing of trifluoroethene.

DATE: Comments must be submitted by August 3, 1984.

ADDRESS: Written comments should bear the document control number [OPTS-42002A] and should be submitted in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M Street SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection in Rm. E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, D.C. 20460, Toll Free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: The Interagency Testing Committee designated a group of six fluoroalkenes for health effects testing. Based on the evaluation of comments received in response to the ANPR of October 30, 1981, EPA has tentatively decided to accept industry's proposed testing program and to discontinue the rulemaking initiated in the ANPR.

I. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of test rules under section 4(a) of the Act.

The ITC designated the chemical category "fluoroalkenes" for priority testing consideration in its Seventh Report, as published in the Federal Register of November 25, 1980 (45 FR 78432). The Agency responded to the ITC's designation, as required by section 4(e) of TSCA, by issuing an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register of October 30, 1981 (46 FR 53704). In response to the ANPR, the Fluoroalkenes Industry Group (FIG) submitted a proposed testing program for four of the six designated fluoroalkenes identified by the Agency as meeting the ITC's category definition. Since publication of the ANPR, the Agency has also received data under Sections 8(a) and 8(d) of TSCA on several of the fluoroalkenes. The Agency is (a) proposing to accept the industry program for four of the fluoroalkenes and to discontinue the rulemaking initiated in the ANPR and (b) not requiring testing of the other two chemicals in the category.

II. Fluoroalkenes

A. Chemical Background

1. *Chemical description.* The ITC defined the "fluoroalkenes" that they were designating for priority testing consideration to include those compounds having the general chemical formulas $C_nH_{(2n-x)}F_x$, where n equals 2 or 3 and x equals 1 to 6. Six fluoroalkenes meeting this category definition were identified from the TSCA Chemical Substances Inventory. These six compounds are listed in Table 1 along with their production volumes.

TABLE 1.—PRODUCTION

Chemical	Empirical formula	CAS No	1977 production*	Ref.
Vinyl fluoride (VF).	C_2H_3F	75-02-5	<7	(1)
Vinylidene fluoride (VDF).	$C_2H_2F_2$	75-38-7	10	(2)
Trifluoroethene.	C_2HF_3	359-11-5	0.001-0.1	(3)
3,3,3-Trifluoro-1-propene (TFP).	$C_3H_3F_3$	677-21-4	<<2	(4)
Tetrafluoroethene (TFE).	C_2F_4	116-14-3	10-50 17.4	(5) (6)
Hexafluoropropene (HFP).	C_3F_6	116-15-4	1-10	(5)

*Million pounds.

Members of the category are all gases at room temperature with boiling points ranging from −16°C for trifluoropropene to −82°C for vinylidene fluoride. They are highly volatile and moderately degradable in the atmosphere, reacting with ozone, hydroxyl radicals and atomic oxygen to cleave the double bond or form addition products. All the chemicals are insoluble in water. Vinyl fluoride and vinylidene fluoride are flammable over wide ranges of concentration and are explosive at concentrations of 2.6 to 21.7 percent and 5.5 to 21.3 percent by volume, respectively (Ref. 7). Tetrafluoroethene polymerizes readily, and sometimes violently in the absence of inhibitors, even below room temperature. Uncontrolled polymerization can cause explosive degradation to carbon and carbon tetrafluoride, and therefore it is essential to avoid storing tetrafluoroethene under pressure unless the vessels are adequately shielded (Ref. 8).

Hexafluoropropene is listed as nonflammable (Ref. 9), but it is generally co-polymerized with tetrafluoroethene, so any precautions applied because of tetrafluoroethene's hazardous nature will generally be applied to the processing of hexafluoropropene.

2. *Uses of the chemicals.* The fluoroalkenes in this category are all used exclusively as precursors in the manufacture of polymers and elastomers; there is no other use for these compounds (Ref. 7,10).

3. *Production and processing.* The process by which the monomers are made is carried out in a closed system, and the monomer is transferred to the processing areas in closed systems. Polymerization is carried out in high pressure vessels located behind barricaded closed areas of the factory.

In the case of vinyl fluoride, vinylidene fluoride, and tetrafluoroethene, if the monomers are not well contained, an explosion hazard arises. Processes are controlled by operators located in control rooms outside of the reaction area. The Fluoroalkenes Industry Group maintains that these monomers are produced and consumed in plants designed to prevent the escape of the chemicals, because of the explosion hazard. In addition, they contend that there are strong economic considerations which dictate that monomer losses must be held to the absolute minimum (Ref. 10).

4. *Release to the atmosphere.* According to the information provided by industry, all manufacturing and processing operations are subject to strict controls to minimize product losses, and product loss is reported as minimal (Ref. 11).

5. *Human exposure.* Table 2 lists estimates provided by the various manufacturers and by NIOSH of the numbers of workers exposed to each chemical. Actual measurements of exposure to the various chemicals were described in the ANPR. Subsequent to the ANPR the FIG reported on human and area monitoring studies conducted for vinyl fluoride, tetrafluoroethene, hexafluoropropene and vinylidene fluoride. All data indicated average human exposure levels are less than 1 ppm. Area monitoring levels were reported as not exceeding 10 ppm. Individual personal monitors did not exceed 5 ppm peak level. As discussed in the ANPR, given the limited uses of the fluoroalkene monomers, human exposure to these chemicals outside of the workplace is not likely to occur.

TABLE 2.—WORKER EXPOSURE

Chemical	Worker exposure estimates			
	Manufacturer	Ref.	NIOSH	Ref.
Vinyl fluoride	100	(1)	1400	(12)
Vinylidene fluoride.	460	(2)	1900	(13)
Trifluoroethene.	¼ man year	(3)	N/A	
3,3,3-Trifluoro-1-propene.	5	(4)	N/A	
Tetrafluoroethene.	<800	(4)	5000	(14)
Hexafluoropropene.	<800	(6)		

B. Regulatory Background

1. *ITC Recommendations.* The ITC recommended that members of the fluoroalkenes category be tested for carcinogenicity, mutagenicity, teratogenicity, reproductive effects, and other toxic effects with particular emphasis on the renal and cardiovascular systems. The basis for these recommendations was a number of animal studies on the health effects of several of the category members and a possible structure-activity relationship between the category chemicals and other chemicals that are known to cause adverse health effects. While the ITC did not specify a structural configuration in their category definition, their discussion of effects of concern is limited to those fluoroalkenes that contain at least one fluorine atom attached to a double bonded or vinyl carbon.

2. *Scoping Workshop.* To facilitate TSCA section 4 activities, the Agency held a scoping workshop for fluoroalkenes and other 7th ITC list chemicals on March 12, 1981. Notice of the workshop was published in the Federal Register on February 13, 1981 (46 FR 12317–12323). Industry representatives, academic experts, labor, environmental groups, and the general public met with EPA staff to discuss the issues which EPA needed to resolve in order to respond to the ITC report.

At the scoping workshop industry representatives presented information on their plant's production volumes as well as exposure and release estimates and made new test data available to EPA. In addition they volunteered to submit additional testing protocols for Agency review. EPA heard evaluations from academic experts on the need for additional testing. Following the workshop, the manufacturers of four of the chemicals in the fluoroalkenes category (vinyl fluoride, vinylidene fluoride, tetrafluoroethene, and hexafluoropropene) formed a consortium known as the Fluoroalkene Industry Group (FIG), which subsequently furnished EPA with exposure reports on these four compounds and test protocols for testing planned or in progress on vinylidene fluoride and tetrafluoroethene.

3. *Response of EPA to the ITC Report.* EPA reviewed all available data, recommendations, and submissions in determining its response to recommendations of the ITC. EPA had previously indicated that although it would generally initiate testing action through publication of a proposed rule, it would initiate action on chemical categories and certain complex chemicals through publication of an Advance Notice of Proposed Rulemaking (ANPR). The reasons the Agency had for utilizing an ANPR for the fluoroalkenes were applicable to categories in general and specific to the fluoroalkenes.

In general, development of rulemaking for a category of chemicals involves issues both more numerous and complex than for a single chemical. In this particular case, the rationale behind the findings for testing of the fluoroalkenes category included a complex integration of structure-activity relationships (SAR) among fluoroalkenes and other chemicals having demonstrated adverse health effects. This time-consuming effort coupled with the other required actions of a TSCA section 4 finding led the Agency to choose the ANPR approach for this category.

As an aid in choosing which chemicals to test within the fluoroalkenes category, EPA proposed in the ANPR to subcategorize the chemicals. The members of each subcategory were expected to share structure-activity relationships based on the number and location of the fluorines substituted for hydrogen on the carbon atoms of the molecules. This type of subcategorization was suggested by industry participants at the scoping workshop. The ITC's SAR analysis was based on the number of fluorines in the molecule. The subcategories proposed in the ANPR were:

Subcategory A—Vinyl fluoride and vinylidene fluoride

Subcategory B—Trifluoroethene, tetrafluoroethene and hexafluoropropene

Subcategory C—3,3,3-Trifluoro-1-propene.

The structural relationships of members of the subcategories can be described chemically as follows: Subcategory A contains compounds with one or two fluorines substituted on one of the double-bonded (vinyl) carbons while subcategory B contains compounds with three or more fluorines substituted for the hydrogens on the double-bonded (vinyl) carbons as well as on the adjacent (alpha) carbon. Subcategory C contains only 3,3,3-trifluoro-1-propene which has none of its fluorines attached to a double-bonded carbon. EPA expected to propose testing of one chemical from each of the first two subcategories. Such testing would establish the toxic effects for a compound with few fluorines and for one with many fluorines. The third subcategory was not proposed for testing because 3,3,3-trifluoro-1-propene does not share the structure on which the ITC's testing recommendations were made: its fluorines are linked chemically to an allylic carbon rather than a vinylic carbon. It is reported that the chemical activity of these two kinds of structures is totally different (Ref. 15).

4. *Comments received on the ANPR.* The Natural Resources Defense Council

(NRDC) submitted comments which questioned whether the issuance of an ANPR for the fluoroalkenes satisfies the statutory requirement under TSCA section 4(e) to either initiate a rulemaking proceeding or provide reasons for not doing so within twelve months of an ITC designation. The Agency believes that the issuance of an ANPR does indeed initiate rulemaking under TSCA section 4(a) and has presented the bases for this position to a federal district court in the case of *NRDC et al.* v. *EPA*, 83 Civ. 8844 (S.D.N.Y. 1983).

NRDC also questioned the appropriateness of the subcategorization scheme set forth in the ANPR and suggested that all of the category members should be tested. The Agency agrees, in part, that the subcategorization scheme presented in the ANPR may not have merit. However, the Agency presently believes that the mutagenicity testing on VF, VDF, TFE, and HFP and the chronic studies being conducted on VDF and TFE will provide sufficient data to enable EPA to reasonably predict the health effects of the fluroralkenes. (See Unit IV.B.)

EPA received a proposed testing program from the Fluoroalkene Industry Group as their comment on the ANPR. This group addressed only the four chemicals in the category which FIG members manufacture. They did not suggest any changes in either the SAR approach or the use of subcategorization. Testing would include additional mutagenicity studies and human exposure monitoring for all four chemicals, a subchronic study on tetrafluoroethene, and a cancer bioassay chronic study for vinylidene fluoride.

5. *EPA's revised position.* The Agency has made a more extended examination of the fluoroalkenes category in the process of deciding whether to accept industry's proposed testing program in lieu of proceeding with a proposed rule. From this review, new information has been obtained which supports EPA's position that:

a. The biological/chemical activity of certain chlorinated ethene compounds (vinyl chloride and other related chemicals) may be extrapolated to fluorinated analogues.

b. The decision not to test 3,3,3-trifluoro-1-propene is appropriate because this compound is not produced in substantial quantities and human exposure to the chemical is quite low such that the findings under 4(a) cannot be made. Moreover, 3,3,3-trifluoro-1-propene is not in the same chemical class as the other fluoroalkenes.

c. There is insufficient SAR information on the five related fluoroalkenes to divide them into subcategories based on differences in structure. However, this does not eliminate use of SAR to potentially define the entire category. (See Unit IV.B.)

d. There is sufficient information to conclude that no testing of trifluoroethene is required. The Agency's concerns cannot be justified because of the low production volume and low human exposure as shown in Tables 1 and 2. However, this chemical will be considered as a candidate for follow-up rulemaking under section 8(a) or 5(a)(2) of TSCA. (See Tables 1 and 2 and Unit IV.A.)

e. The data derived from the FIG testing program will be sufficient to reasonably predict or determine the health effects of concern for the fluoroalkene category. Moreover, EPA believes that this testing will provide data more expeditiously than proceeding through proposed and final rules. Thus, the Agency has tentatively decided to adopt the testing program submitted by the FIG as a negotiated testing agreement.

III. Testing Proposed By Industry

A consortium of manufacturers of four of the fluoroalkenes in the category, known as the Fluoroalkenes Industry Group (FIG), and including DuPont, Allied Corporation, American Hoechst Company, ICI Americas Inc., and the Pennwalt Corporation, has met with EPA to submit testing data not available to the ITC, and to indicate their plans for further health effects testing. The FIG's proposed testing program is described below (Ref. 35). Of the six fluoroalkenes identified as category members, these manufacturers produce vinyl fluoride (VF), vinylidene fluoride (VDF), tetrafluoroethene (TFE) and hexafluoropropene (HFP) for which they have submitted protocols for tests which they have agreed to perform: Mutagenicity tests on VF, VDF, TFE and HFP. Oncogenicity/chronic effects testing on VDF. Workplace exposure monitoring (in addition to that previously reported) on all four chemicals in all the manufacturing plants.

Trifluoroethene and 3,3,3-trifluoro-1-propene are discussed in Units II.B.3. and II.B.5., respectively.

One week after EPA's acceptance of the test program, contracts for testing will be distributed to the laboratories for execution within three weeks. Mutagenicity testing would begin for two chemicals within the same calendar quarter as acceptance of the program, and the work would be completed on these tests four months later. The other chemicals would be started in sequence, and all work would be completed and reports issued approximately one year after initiation of testing.

A 90-day range-finding subchronic study on VDF is planned, and the lifetime study is scheduled for initiation following evaluation of the 90-day study. These studies will begin in the summer of 1984.

The FIG has submitted draft protocols for collecting new exposure information on VF, VDF, TFE, and HFP. The member companies will supply information on each fluoroalkene used at each site. The data will be combined into a single table for each of the four fluoroalkenes, and the combined tables as well as original tables completed for each site will be submitted to EPA. The protocols have been reviewed by EPA, and the industry is now finalizing the protocols according to EPA's guidance. The Agency believes that these studies will provide sufficient information to evaluate the extent of worker exposure to the fluoroalkene category members and, if appropriate, to suggest further reduction in exposure.

EPA will examine the data from these tests along with other completed studies that the FIG has already submitted to determine whether there is need for additional testing.

The FIG is prepared to discuss and will consider sponsoring further testing of the four named chemicals.

A. Mutagenicity Testing

The FIG has proposed to extend the existing mutagenicity data with the following tests which will be initiated after publication of EPA's final decision following review of comments on this notice. The results of these tests along with other available data will be used to characterize the mutagenic potential of these chemicals.

1. *Salmonella typhimurium* reverse mutation assay (with and without activation) on TFE.

2. Eukaryotic cell gene mutation study using Chinese hamster ovary cells (gene mutation testing in somatic cells in culture) on VF, VDF, TFE, and HFP.

3. *In vitro* cytogenic chromosomal aberration study in Chinese hamster ovary cells (*in vitro*) mammalian cytogenetics tests for chromosomal aberrations) on VF, VDF, TFE, and HFP.

B. Oncogenicity/Chronic Effects Testing on VDF

The FIG notes that VDF is currently scheduled for testing in a two-year animal bioassay funded by industry and carried out under the auspices of the Association of Plastics Manufacturers in Europe. A 90-day range-finding

subchronic study is to be followed by the main study, according to the final protocols submitted to the Agency.

C. Workplace Exposure Monitoring

The FIG has contended that workplace exposures are lower than those previously cited by the Agency, and that all exposures are much lower than the manufacturers' voluntary control levels for the fluoroalkenes. Therefore, to demonstrate this low level of exposure, the FIG has proposed to conduct an in-depth worker monitoring study at each facility producing a fluoroalkene. This study will utilize a newly developed personal monitoring device which will more accurately measure the four chemicales.

D. Results From Completed Testing

A completed 90-day subchronic inhalation study on TFE conducted by Haskell Laboratories for the Society of the Plastics Industry, Inc. was submitted by the FIG as a part of their proposed testing program (Ref. 16). This study has been reviewed by EPA scientists who reported that the testing seemed to be well conducted with a demonstrated no observed effect level. It is sufficient to reasonably predict the non-oncogenic chronic effects of TFE. The FIG has also submitted results of *S. typhimurium* reverse mutation assays on VF, VDF, and HFP which were reviewed and found to have been conducted using acceptable protocols.

E. Additional Future Testing

The National Toxicology Program (NTP) is considering testing of tetrafluoroethene (TFE) in a two-year chronic bioassay. The prechronic phase of this testing will begin in June 1984.

Subsequent to FIG's proposal to test VDF, NTP decided to perform testing on VDF. NTP has several options at this stage including a decision to follow through with testing of only the mouse since the FIG has agreed to perform testing in the rat. However, NTP's decision will depend on the detailed report of the subchronic study due in late Spring 1984. NTP will follow up this report with their decision on testing in the summer of 1984.

IV. Preliminary Decision To Terminate Rulemaking

A. 3,3,3-Trifluoro-1-Propene and Trifluoroethene

As discussed in Unit II.B.3, 3,3,3-trifluoro-1-propene does not fit the ITC's implied (vinyl) definition of the category. The Agency suggested in its ANPR that this compound be dropped from testing consideration and now formally concludes this act. There are no date indicating that the chemical may present adverse health effects. In addition, the manufacturer reported a very low level of production and worker exposure in written comment to the ANPR. EPA has no data to indicate this information is erroneous. For all of these reasons, the Agency believes that the findings under TSCA section 4(a) cannot be made for 3,3,3-trifluoro-1-propene and thus, is finalizing its decision not to require testing of this chemical.

Trifluoroethene fits the category definition. However because production and worker exposure are at a very low level, which will not support the necessary findings for testing under TSCA section 4, the Agency is discontinuing section 4 rulemaking for this chemical.

B. Fluoroalkenes Testing Program

At the conclusion of each of the key testing programs the Agency will review the need for further testing. EPA believes that the oncogenic/chronic studies on VDF will provide sufficient information to resaonably predict the potential health effects of this chemical. Moreover, data on VDF may allow the Agency to evaluate carcinogenic and other chronic effects of the other chemicals in the category. Health effects data from more than one category member would be beneficial in enabling the Agency to predict the health effects of the others. The oncogenic test results on VDF and TFE, plus mutagenicity tests results on the other category members, should provide the Agency with sufficient data to reasonably predict the oncogenic potential of the group. The Agency will be an active participant in the NTP's decision to perform long-term testing on TFE.

Also, the Agency will evaluate the results of the rodent bioassay tests on VDF and TFE, the existing subchronic testing on TFE, and the mutagenicity results on the four chemicals being tested, to asses overall toxicologic hazard. The monitoring studies will be used to determine whether an unreasonable risk exists for the entire category or for individual members of the category such that additional exposure controls or additional testing should be required.

EPA does not believe that there is sufficient evidence of potential reproductive effects to support a section 4(a)(1)(A) finding to propose testing at this time. This decision will be re-evaluated based on the results of the chronic and subchronic studies on VDF if effects are seen on the reproductive organs or upon organs which, if impaired, can affect reproductive preformance.

The results of teratogenic testing on VDF were negative. Even though the study protocol did not meet EPA standards for testing because there was only one species tested, there was no teratogenic effect found and consequently no finding can be made for potential unreasonable risk due to teratogenic effects.

Consequently, the Agency proposes to accept the FIG's proposed testing program, and not to continue the rulemaking action initiated by the ANPR. Should there be a need for additional clarifying toxicology data, and the FIG does not agree to provide these data, the Agency would expedite the rulemaking process. Additionally the NTP data will be used to assess hazard of not only VDF and TFE, but the applicability of SAR to the group.

V. GLP's and Other Provisions

The FIG has agreed to furnish EPA with the names and addresses of laboratories conducting the tests described above as soon as they are available. The specific tests being performed by each laboratory shall be indicated.

The FIG has agreed to adhere to the TSCA Good Laboratory Practice Standards published by the Agency in the Federal Register of November 29, 1983 (48 FR 53922).

The FIG has agreed to permit laboratory audits/inspections at the request of authorized representatives of the EPA in accordance with the authority and procedures outlined in TSCA section 11. This agreement extends to the study on VDF being conducted in Europe. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to TSCA Good Laboratory Practices.

The FIG has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of a study will be retained as specified in the TSCA Good Laboratory Practice Standards and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

The FIG understands that TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA.

The FIG also understands that the Agency plans to publish in the Federal

Register a notice of the receipt of any test data submitted under this Agreement. Subject to TSCA section 14, the notice shall provide information similar to that described in TSCA section 4(b). Except as otherwise provided in TSCA section 14, such data will be made available for examination by any person.

Finally, the FIG understands that failure to conduct the testing according to the specified protocol(s) and failure to follow Good Laboratory Practices may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

VI. References

(1) Fluoroalkene Industry Group. Unpublished Report on Potential Exposure to Vinyl Fluoride During Manufacture of Monomer Vinyl Fluoride. Submitted to USEPA June 26, 1981.

(2) Fluoroalkene Industry Group. Unpublished Report on Vinylidene Fluoride (VDF) Exposure. Submitted to USEPA June 26, 1981.

(3) Halocarbon Products Corporation. Letter from L. Ferstandig to A. Keller, June 25, 1982.

(4) Halocarbon Products Corporation. Letter from L. Ferstandig to A. Keller, April 27, 1981.

(5) TSCA Chemical Substances Inventory (EPA 1977).

(6) Fluoroalkene Industry Group. Unpublished Report on Potential Exposure to Tetrafluoroethene During Manufacture of Monomer Tetrafluoroethene. Submitted to USEPA August 13, 1981.

(7) Chemical Hazard Information Profile Vinylidene Fluoride; Vinyl Fluoride. January 30, 1978.

(8) Coffey, S., ed. "Rodd's Chemistry of Carbon Compounds", 2nd Ed. Vol. 1, Part A. Amsterdam: Elsevier. 1964.

(9) Hawley, G.G. "The Condensed Chemical Dictionary", 10th ed. New York: Van Nostrand Reinhold. 1981.

(10) Fluoroalkene Industry Group. Comments on Fluoroalkene ANPR (Docket No. 42002) January 26, 1982.

(11) NIOSH. Natl. Inst. Occupational Safety and Health. Criteria for a recommended standard: occupational exposure to vinyl halides. Unpublished. Washington, D.C.: NIOSH, U.S. Dept. Health, Education, and Welfare. 1979.

(12) NIOSH (National Institute for Occupational Safety and Health). Vinyl Fluoride Industrial Hygiene Survey Report. October 1977.

(13) NIOSH/OSHA (National Institute for Occupational Safety and Health/ Occupational Safety and Health Administration). Current Intelligence Bulletin 28. Vinyl Halides Carcinogenicity. September 21, 1978. DHEW (NIOSH) Publication No. 79-102.

(14) NIOSH. SIC/NOSH Survey. Computer printout of survey covering 1972-74. Retrieved by USEPA 1980.

(15) Morrison, R.T. Boyd, R.N. "Organic Chemistry", 2nd Edition. Boston: Allyn and Bacon. 1966.

(16) The Society of the Plastics Industry, Inc. Ninety-Day Inhalation Toxicity Study with Tetrafluoroethylene (TFE) in Rats and Hamsters. Haskell Laboratory Report No. 208-82. July 20, 1982.

(17) Fluoroalkene Industry Group. Proposed Fluoroalkene Testing Program General Study Plan. June 30, 1982.

VII. Public Record

EPA has established a public record for this decision not to initiate testing under section 4 (docket number OPTS-42002A). This record includes:

(1) Federal Register Notice designating the fluoroalkenes to the priority list.

(2) Communications with industry related to the FIG program, consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) FIG program.

(4) Study plans.

(5) Published and unpublished data.

(6) Federal Register ANPR requesting comments on the proposed testing, and comments received.

The record, containing the basic information considered by the Agency in developing this decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays in the OPTS reading room, E-107, 401 M Street, SW, Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information. (Sec. 4, 90 Stat. 2003; 15 U.S.C. 2601).

Dated: May 28, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-14828 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

[[OPTS-42040A]; TSH-FRL 2578-1]

Tris(2-Ethylhexyl) Trimellitate Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the Federal Register of November 14, 1983, EPA announced a preliminary decision not to initiate rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of tris(2-ethylhexyl) trimellitate (TOTM) [CAS No. 3319-31-1] pending consideration of public comments on a testing proposal submitted to EPA by the Trimellitate Esters Panel (TEP), a group formed under the sponsorship of the Chemical Manufacturers Association (CMA). No public comments were received and the Agency finds no reason to alter its preliminary decision and is not proposing a section 4(a) rule to require environmental or health effects testing of TOTM.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M Street SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of November 14, 1983 (48 FR 51842), the Agency announced a preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of tris(2-ethylhexyl) trimellitate (TOTM). This decision was based on the Agency's evaluation of the existing data on TOTM, the expected exposure pattern for TOTM and the tentative acceptance of a testing proposal submitted by the Trimellitate Esters Panel (TEP), a group formed under the sponsorship of the Chemical Manufacturers Association (CMA).

A draft of TEP's testing proposal was included in the public record (docket number OPTS-42040). The Agency requested comments on both its tentative decision not to require testing of TOTM and on the proposed testing scheme.

II. Summary of Ongoing and Planned Testing Programs

The Trimellitate Esters Panel (TEP) has presented to EPA a proposal for testing TOTM for health effects, environmental effects, and chemical fate. The tests will be modeled after the TSCA testing guidelines. The TEP has provided the Agency with preliminary laboratory selection information and a proposed testing schedule predicated on final program acceptance by the Agency in June 1984. The TEP proposal for TOTM includes the following tests:

1. *Mutagenicity.* To characterize further the genetic activity of TOTM, the TEP will perform an unscheduled DNA synthesis assay in primary rat hepatocytes and a Chinese Hamster Ovary Hypoxanthine Guanine Phosphoribosyl Transferase Forward Mutation assay. These studies are scheduled to begin in July, 1984, and be completed (final report submitted) in January 1985.

2. *Chemical disposition and metabolism.* Eastman Kodak Company, a member company of the TEP, is conducting an *in vivo* metabolism study using TOTM. When results and conclusions of this work are available, they will be submitted to the Agency. On February 6, 1984, the Eastman Kodak Company submitted to the Agency final reports on the mutagenicity of urinary metabolites and the *in vitro* metabolism of TOTM. The anticipated completion date for the *in vivo* metabolism study is May, 1984.

3. *Twenty-eight-day feeding study.* The TEP will conduct a 28-day feeding study which will include examination of major organs and neurological tissues, full clinical chemical and hematological profiles, and an investigation of peroxisome induction and hypolipidemia. This study will begin in July, 1984 with completion scheduled for June, 1985.

4. *Physical-chemical properties.* The TEP will develop and analytic method for measuring TOTM in water. The TEP will then determine the maximum solubility of TOTM in water and the octanol-water partition coefficient of TOTM. Methodology development will begin in July, 1984 and be completed by October, 1984. Determinations using this method will be completed in February, 1985.

5. *Biodegradation.* TOTM will be tested in a shakeflask biodegradation test to determine the rate of parent compound disappearance, CO_2 evolution, and the percentage of carbon converted to CO_2. This study is planned from February through June, 1985.

6. *Toxicity to aquactic invertebrates.* A 21-day reproduction study in *Daphnia magna* will be conducted to assess the environmental impact of TOTM. Acute toxicity data will be generated from the range-finding studies done in preparation for this study. This study is planned from March through September, 1985 with final reports submitted by October, 1985.

After review of results of the base set tests by the TEP and EPA personnel, EPA will determine if further studies, such as subchronic and chronic studies, are necessary.

III. GLP's and Other Provisions

Program reviews will be conducted by EPA at appropriate intervals throughout the program to assess the need for additional testing of TOTM. Should TEP fail to make a good faith effort to adhere to its testing schedule outlined above, EPA may initiate rulemaking to require testing.

The TEP has furnished EPA with the names and addresses of the laboratories conducting the tests under this agreement. The TEP has also agreed to adhere to the Good Laboratory Practice Standards promulgated by the U.S. Environmental Protection Agency as published in the Federal Register of November 29, 1983 (48 FR 53922). The TEP has agreed to permit laboratory inspections and study audits in accordance with the provisions outlined in TSCA section 11 at the request of authorized representatives of the EPA for the purpose of determining compliance with this agreement. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practice provisions.

The TEP has further agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained for at least 10 years from the date of publication of the acceptance of any protocols by EPA and made available during an inspection or submitted to EPA if requested by EPA or its designated representative. The TEP understands that the Agency plans to publish quarterly in the Federal Register a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Finally, the TEP understands that failure to conduct the testing according to the specified protocols and failure to follow Good Laboratory Practice procedures may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to require further testing.

IV. Public Comment on TEP's Proposed Testing Program for TOTM

The Agency has received no public comment on EPA's proposed decision not to test TOTM and on the TEP's proposed testing scheme for this chemical.

V. Decision To Adopt Negotiated Testing Program

The Agency currently believes that this testing program will provide sufficient data to reasonably determine or predict the health and environmental effects of TOTM and is adopting this negotiated testing program in lieu of initiating rulemaking under TSCA section 4.

Depending on the results of the preliminary data review in this negotiated testing agreement, the Agency may determine that additional health and environmental effects tests should be conducted. If, having evaluated the data developed during the negotiated testing program, the Agency determines that additional testing should be conducted, EPA reserves the right to propose a test rule to obtain the additional test data.

VI. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 [docket number OPTS-42040]. This record includes:

(1) Federal Register notice designating TOTM to the priority list (47 FR 54624) and all comments on TOTM reviewed in response thereto.

(2) Communications with industry on the testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) Federal Register notice requesting comment on the negotiated testing proposal and comments received in response thereto (48 FR 51842).

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, in Room E-107, 401 M St. SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: May 23, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-14027 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL 2593-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the Federal Register a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of

Management and Budget for review. The ICR describes the nature of the solicitation an the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Regulation and Information Management Division (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

Title: Amendment to the Health and Safety Reporting Rule (EPA #0575).

Abstract: Chemical manufacturers and processors must automatically submit health and safety studies to EPA on chemicals the Interagency Testing Committee recommends for testing but does not designate for 12-month response. EPA will use this information to assess health and environmental effects of the substances and the need for further testing.

Respondents: Chemical manufacturers and processors.

Title: Amendment to the Preliminary Assessment Information Rule (EPA #0586).

Abstract: Chemical manufacturers and processors must automatically submit production, use and exposure information to EPA on chemicals the Interagency Testing Committee recommends for testing but does not designate for 12-month response. The Agency will use this information to assess the need for further testing.

Respondents: Chemical manufacturers and processors.

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, S.W., Washington, D.C. 20460

Carolos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503

Dated: May 25, 1984.

David Schwarz

Acting Director, Regulation and Information, Management Division.

[FR Doc. 84-14676 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 79-166]

The Administrative Conference for AM Broadcasting in Region 2

AGENCY: Federal Communications Commission.

ACTION: Termination of Inquiry.

SUMMARY: The FCC terminates the Inquiry opened in Docket 79-166 (July 6, 1979, 44 FR 39611) as part of preparations for the Region 2 Administrative Radio Conference on AM broadcasting in the Western Hemisphere.

That Conference concluded with the signing of the Final Acts of RARC-81.

Thus, the purpose for which Docket 79-166 was opened has been fulfilled.

ADDRESS: For further information contact Louis C. Stephens, FCC, (202) 632-7792.

Order

In the matter of the Administrative Conference for AM broadcasting in Region 2 (BC Docket No. 79-166).

Adopted: May 18, 1984.
Released: May 23, 1984.

By the Chief, Mass Media Bureau.

The inquiry conducted in this docket has fulfilled its purpose of advising the Commission on preparations for the Regional Administrative Radio Conference on AM broadcasting in Region 2; and an inquiry has been opened in BC Docket No. 82-187 (April 27, 1982, 47 FR 18009) on implementation of the Final Acts of that Conference that were signed in Rio de Janeiro in 1981. Accordingly, it is ordered that the above-captioned docket is terminated.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 84-14649 Filed 6-1-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-590-11.

Title: The Board of Commissioners of the Port of New Orleans and Public Grain Elevator of New Orleans, Inc., Terminal Lease Modification.

Parties: The Board of Commissioners of the Port of New Orleans (Board and Public Grain Elevator of New Orleans, Inc. (Public).

Synopsis: Agreement No. T-590-11 modifies the parties' basic agreement for the lease of a grain elevator facility. The purpose of this modification is to exercise its option for a fourth extension of five years commencing July 27, 1984 and ending July 26, 1989 at the same rental as contained in the present agreement. The agreement is subject to cancellation by either party upon ninety days' advance written notice, except that in the event the agreement is cancelled by the Board, the Board will reimburse Public for improvements made by Public to the premises.

Filing Party: Deborah J. Moench, Attorney, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

By Order of the Federal Maritime Commission.

Dated: May 30, 1984.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 84-14661 Filed 6-1-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2620]

Aircontact, Inc. d.b.a. Viking Transport; Order of Revocation

On May 17, 1984, Aircontact, Inc. dba Viking Transport, 2001 Marcus Avenue, Lake Success, NY 11042 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2620.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.03(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2620, be revoked effective May 17, 1984, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Aircontact, Inc. dba Viking Transport.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-14859 Filed 6-1-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2291]

A-M Cargo International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of A-M Cargo International, Inc., 15935 Morales, Houston, TX 77032 was cancelled effective May 11, 1984.

By letter dated April 13, 1984, A-M Cargo International, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2291 would be automatically revoked unless a valid surety bond was filed with the Commission.

A-M Cargo International, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2291 be and is hereby revoked effective May 11, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2291 issued to A-M Cargo International, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon A-M Cargo International, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-14860 Filed 6-1-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2407]

Pan World Shipping, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Pan World Shipping, Inc., 1331 Royal Lane, DFW Airport, TX 75261 was cancelled effective May 11, 1984.

By letter dated April 10, 1984, Pan World Shipping, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2407 would be automatically revoked unless a valid surety bond was filed with the Commission.

Pan World Shipping, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.03(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2407 be and is hereby revoked effective May 11, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2407 issued to Pan World Shipping, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Pan World Shipping, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-14859 Filed 6-1-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First National State Bancorporation; Applications To Engage de Novo In Nonbanking Activities

The company listed in this notice has filed applications under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through national bank subsidiaries in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiaries will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of these applications, under established Board policy the record of the applications will not be regarded as complete and the Board will not act on the applications unless and until a preliminary charter for each proposed national bank subsidiary has been submitted to the Board.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the applications must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than June 22, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First National State Bancorporation*, Newark, New Jersey; to engage through two national bank subsidiaries, First National State Bank (Greenwich), Greenwich, Connecticut and First National State Bank (Chevy Chase), Chevy Chase, Maryland, in consumer and mortgage lending; trust

services; investment advisory services; and deposit-taking, including demand deposits. These activities would be performed in the Washington, D.C.-Maryland-Virginia metropolitan area, Fairfield, Connecticut and Westchester, New York.

Board of Governors of the Federal Reserve System, May 29, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14799 Filed 6-1-84; 8:45 am]

BILLING CODE 6210-01-M

Northshore Bancshares, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is avaialable for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains n efficienty, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1984.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Northshore Bancshares, Inc.,* Houston, Texas; to engage *de nove* through its subsidiary, Revised Computer Services, Inc., Houston, Texas in providing data processing activities relating to the banking business, including check and deposit sorting and posting; computation and posting of interest and other credits and mailing of checks, statements, notices and similar items; preparation of daily, weekly, and monthly reports; and all other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

Board of Governors of the Federal Reserve System, May 29, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14800 Filed 6-1-84; 8:45 am]

BILLING CODE 6210-01-M

Old Point Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 25, 1984.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Old Point Financial Corporation,* Hampton, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Old Point National Bank of Phoebus, Hampton, Virginia.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Universal Corporation,* Ypsilanti, Michigan; to become a bank holding company by acquiring 90 percent or more of the voting shares of The National Bank of Ypsilanti, Ypsilanti, Michigan.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FNB Financial Corporation,* Scottsburg, Indiana; to become a bank holding company by acquiring at least 50.65 percent of the voting shares of First National Bank of Scottsburg, Scottsburg, Indiana. This is a modification of Applicant's original proposal to acquire 48.75 percent of the shares of First National Bank of Scottsburg.

Board of Governors of the Federal Reserve System, May 29, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14801 Filed 6-1-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Reopening of Comment Period To Consider Possible Modifications Regarding the FTC Cigarette Testing Program

AGENCY: Federal Trade Commission.

ACTION: Announcement of Commission Determination to Reopen Comment Period To Consider Possible Modifications Regarding the FTC Cigarette Testing Program.

SUMMARY: This document announces the Commission's determination to reopen the comment period to consider possible modifications regarding the FTC Cigarette Testing Program. In accordance with this determination, the Commission will accept comments on possible modifications until July 5, 1984.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Federal Trade Commission, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 376-8648.

Comments: Comments should be filed in Room 130, Federal Trade Commission, 6th & Pennsylvania Avenue, NW., Washington, D.C. 20580, no later than July 5, 1984.

SUPPLEMENTAL INFORMATION: On April 13, 1983, the Commission announced its

determination that the present FTC cigarette testing methodology does not assess Barclay cigarettes accurately and requested comments on possible testing modifications. Comments on related issues, such as possible actions other than or in addition to modification of the testing methodology and questions concerning compensatory smoking behavior also were requested. 48 FR 15953. The comment period ran from April 13, 1983 to June 30, 1983. The Commission is now reopening the comment period because during the original comment period the Commission's statement explaining how it had determined that testing modifications should be considered, as well as the evidence underlying that statement, were under court-ordered seal. In the original Federal Register notice requesting comment on possible modifications, the Commission recognized that the statement and underlying evidence, if available, would have been helpful to those parties wishing to comment. However, since it was not known whether or when the seal would be dissolved, the Commission decided to seek comment anyway. 48 FR 15954. In fact, three organizations (American Cancer Society, American Lung Association and American Heart Association) have requested to file late comments, in part because so little information on the Barclay controversy was publicly available when comments were solicited. Since the court-ordered seal has now been dissolved, and the information previously under seal is available, the comment period will be reopened for thirty days. The information that was under seal will now be available for review in Room 130 by any interested party.

By this notice, the Commission additionally announces that it is placing on the public record a new cigarette testing filter holder ("Kamm Holder") that was brought to the Commission's attention during the course of litigation in September, 1983, in the United States District Court for the District of Columbia. In that litigation the FTC sought to enjoin Brown & Williamson Tobacco Corp. ("B&W," the manufacturer of Barclay cigarettes) from continuing to advertise Barclays as 1 mg. "tar" cigarettes. *FTC* v. *Brown & Williamson Tobacco Corp.*, No. 83-1940 (D.D.C. Oct. 19, 1983), *appeal docketed*, No. 83-2129 (D.C. Cir. Oct. 28, 1983). According to B&W, the Kamm holder simulates human lip crushing and occluding. The Kamm holder and supporting test data are available for inspection in Room 130. Interested parties may comment on this holder during the reopened comment period as if it were one of the modifications initially inquired about in the original Federal Register notice.

For the convenience of any party interested in commenting, the Commission is republishing the questions set out in its April 13, 1983 Federal Register notice, to wit:

The Commission is seeking comments on each of the following proposed holders for its testing machine:

(A) The MK II "Filtrona" holder, manufactured by Cigarette Components Ltd. of London and sold in the United States by American Filtrona Corp., Richmond, Virginia. This holder increases the pressure on the filter, thereby reducing air flow through the channels on the Barclay-type filter.

(B) A modified version of the Cambridge holder currently used on the machine, containing a ring of foam rubber so as to abut the mouth end of the cigarette and block the exit channels on the Barclay-type filter.

(C) A cigarette holder designed so that one or more of the ventilation channels on the Barclay filter are blocked.

Each of these holders is intended to simulate the reduction in ventilation that occurs when humans smoke Barclay. The Commission has not yet determined whether any of these modifications is technically feasible and practicable, or whether some other modification will insure that all cigarettes, including Barclay, can be ranked accurately.

The Commission also is requesting comments on the following specific questions and any other issues relevant to possible modifications of its testing methodology given the Commission's determinations regarding Barclay:

(1) Which of the proposed modifications, or what other modification, would yield the most appropriate test results for all cigarettes, given the Commission's finding in this matter and the consultants' estimates of Barclay's tar delivery?

(2) How quickly and easily, and at what cost, could the Commission implement each of the proposed modifications, or any other proposed modifications?

(3) Regarding proposal (C), which would more appropriately rank Barclay cigarettes—for example, a holder blocking two channels or one blocking three channels?

(4) Does the current FTC method accurately assess the relative "tar," nicotine and carbon monoxide of Kool Ultra and Kool Ultra 100's, each of which utilizes the Actron filter utilized in Barclay? If not, how should these products be assessed?

(5) Given the Commission's findings, what action other than modification of the testing methodology, if any, is appropriate?

(6) Would there be unintended consequences from modifying the cigarette testing method and/or machine? What effect might modification have upon possible innovation in the cigarette design?

(7) Should the Commission further examine the implications for its testing program of the issues raised by compensatory smoking behavior, including hole blocking, when consumers smoke lower "tar" cigarettes? What is the evidence that smokers use higher "tar" cigarettes differently than lower "tar" cigarettes? What is the evidence regarding the extent of hole blocking by smokers of different ventilated filter cigarettes? How does behaviorally reduced air dilution affect the relative rankings of various brands? Are there problems regarding compensatory smoking behavior which are significant enough to warrant further exploration of changes in the method, beyond those necessitated by the Commission's findings concerning Barclay? What lines of inquiry would generate the most useful information if such an examination is undertaken? For example, should the Commission explore a system of categories or "bands" of "tar" content rather than specific numerical estimates? Also, should consumers be advised that the cigarettes' actual "tar" delivery depends on how it is smoked?

In addition to responses to these questions, the Commission will carefully consider any additional research, such as studies of blood cotinine in smokers and air dilution in ventilated filter cigarettes, or other relevant information bearing on the appropriate relative rankings of these products.

By direction of the Commission.

Dated: May 21, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-14339 Filed 6-1-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation: Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Dallas District Office, chaired by James E. Anderson, District Director. The topics to be discussed are Food Safety, Food Irradiation, and Drug Education.

DATE: Monday, June 11, 1984, 5:30 p.m. to 7 p.m.

ADDRESS: Reddy's Rendezvous, PNM Building, Alvarado Square, Albuquerque, NM 87111.

FOR FURTHER INFORMATION CONTACT: Hazel L. Wallace, Consumer Affairs Officer, Food and Drug Administration, 1200 Main Tower, Suite 1545, Dallas, TX 75202, 214–767–5433.

Atlanta District Office, chaired by John H. Turner, District Director. The topics to be discussed are Ethylene Dibromide and Food Irradiation.

DATE: Tuesday, June 19, 1984, 9:30 a.m. to 12 m.

ADDRESS: Rm. 302, Urban Life Bldg., Georgia State University, University Plaza, Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: Carolyn Hommel, Consumer Affairs Officer, Food and Drug Administration, 1182 West Peachtree St. NW., Atlanta, GA 30309, 404–881–7355.

Brooklyn District Office, chaired by George J. Gerstenberg, District Director. The topics to be discussed are Sulfiting Agents in Food and Drugs and Food Irradiation.

DATE: Wednesday, June 27, 1984, 1 p.m. to 3 p.m.

ADDRESS: Teachers College, Columbia University, Dodge Hall, Rm. 60–C, 525 West 120th St., New York, NY 10027.

FOR FURTHER INFORMATION CONTACT: Herman B. Janiger, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5043.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 30, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–14907 Filed 5–30–84; 4:53 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Idaho Falls District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet July 12, 1984. Notice of this meeting is in accordance with Pub. L. 91–463, Pub. L. 94–579, Pub. L. 95–514 and 43 CFR Part 1780. The meeting will begin at 8 a.m. at the BLM District Office, 940 Lincoln Road in Idaho Falls.

The Council will tour the Medicine Lodge Resource Area for the purpose of discussing the Medicine Lodge Resources Management Plan presently being developed.

Interested persons may make oral comments to the Council between 8–8:30 a.m., or may file written statements for the Council's consideration. Statements should address the Medicine Lodge Resource Management Plan.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) at least 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Don Watson (208) 529–1020.

Dated: May 24, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84–14809 Filed 6–1–84; 8:45 am]

BILLING CODE 4310–84–M

[NM 40782–(Okla.)]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, The Prospective Investment & Trading Company, Ltd. and Santa Fe Andover Oil Company petitioned for reinstatement of oil and gas lease NM 40782–(Okla.) covering the following described lands located in Dewey County, Oklahoma:

T. 18 N., R. 16 W., I.M.,
Sec. 6: Lots 6,7,8.
Containing 93.75 acres, more or less.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $10.00 per acre per year and royalties shall be at the rate of 16⅔ percent, computed on a sliding scale four percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, August 1, 1983.

Dated: May 24, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84–14855 Filed 6–1–84; 8:45 am]

BILLING CODE 4310–FB–M

[NM 29637]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, Dwight Tipton and Michael G. Denton petitioned for reinstatement of oil and gas lease NM 29637 covering the following described lands located in Lea County, New Mexico:

T. 9 S., R. 35 E., NMPM,
Sec. 28: N½NW¼, SW¼NW¼.
Containing 120.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, April 1, 1983.

Dated: May 24, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84–14856 Filed 6–1–84; 8:45 am]

BILLING CODE 4310–FB–M

[NM 25014]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, Coquina Oil Corporation, Charles A. Dean, William J. LeMay, New Mexico Oil Corporation and Robert G. Armstrong petitioned for reinstatement of oil and gas lease NM 25014 covering the following described lands located in Chaves County, New Mexico:

T. 15 S., R. 29 E., NMPM,

Sec. 9: S½NE¼, SW¼, NE¼SE¼, W½SE¼.

Containing 360.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, May 2, 1983.

Dated: May 24, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84-14657 Filed 6-1-84; 8:45 am]

BILLING CODE 4310-FB-M

Availability of Utah Combined Hydrocarbon Regional Final Environmental Impact Statement, Volumes I, II, III, and IV

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement (EIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, Department of the Interior, has prepared a final environmental impact statement (FEIS) analyzing possible development of the tar sand resource in Utah. The EIS contains four volumes.

Volume I is a regional analysis which considers two alternative production levels in addition to the no production (no action) alternative. Volume II contains site specific planning amendments to BLM's land use plans in certain tar sand areas. Alternative leasing categories are examined for each STSA. Volume III contains a site specific analysis for potential new Combined Hydrocarbon Lease tracts. Five alternatives, including no action, are analyzed for potential leasing of specific tracts. Volume IV contains comments received on the Draft EIS and the responses made to those comments.

ADDRESSES: Single copies of the FEIS may be obtained from the following places:

Bureau of Land Management, Richfield District Office, P.O. Box 768, Richfield, Utah 84701

Bureau of Land Management, Utah State Office, Public Room, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Bureau of Land Management, Washington Office, Public Room, Interior Building, 18th & C Streets, NW., Washington, D.C., 20240

FOR FURTHER INFORMATION CONTACT: Alan Partridge, EIS Team Leader, Bureau of Land Management, Richfield District, 150 East 900 North, P.O. Box 786, Richfield, Utah 84791. Telephone (801) 896-8221 or 584-8011 FTS.

SUPPLEMENTARY INFORMATION: Approximately 700 copies of the draft EIS were distributed to Federal, State, and local government agencies, non-governmental organizations, and private citizens for their review and comment. Public hearings were held in Price, Vernal, and Salt Lake City, Utah. Comments on the adequacy of the draft EIS have been responded to in the final EIS. No decision will be made on the tar sand program or land use planning amendments until at least 30 days after the filing date, pending any comments received on the adequacy of the final EIS.

Dated: May 18, 1984.

James Moorhouse,

Acting State Director, Utah.

[FR Doc. 84-14653 Filed 6-1-84; 8:45 am]

BILLING CODE 4310-DQ-M

[U-54079]

Utah—Invitation to Participate in Coal Exploration Program, Getty Coal Company

Getty Coal Company is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Old Women Plateau, 9 miles west of Emery, Utah. The lands are located in Sevier County, Utah, and are described as follows:

T. 21 S., R. 4 E., SLM, Utah
Sec. 11, SE¼, E½SW¼;
Sec. 12, S½;
Sec. 13, all;
Sec. 14, E½, E½W½;
Sec. 23, E½, E½W½;
Sec. 24, all.
T. 21 S., R. 5 E., SLM, Utah
Sec. 17, N½;
Sec. 18, all;
Sec. 19, all;
Sec. 30, lot 1, N½NE¼.

Containing 4,038.34 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Mark Adkins, Getty Coal Company, P.O. Box 7900, Salt Lake City, Utah 84107. Such written notice must be received within 30 days after the publication of this notice in the Federal Register.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Getty Mining Company, is available for public review during normal business hours in the following office, under serial number U-54079: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,

Deputy State Director for Operations.

[FR Doc. 84-14651 Filed 6-1-84; 8:45 am]

BILLING CODE 4310-DQ-M

[W-72984, W-72985]

Wyoming; Proposed Continuation of Withdrawal

May 22, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army proposes that a 1,360-acre withdrawal for the Lander Army National Guard Target Range continue for an additional 25 years. The lands remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by September 4, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

The Department of the Army proposes that the existing withdrawals made by the Executive Orders No. 5668 of July 6, 1931, and No. 8101 of April 28, 1939, and as amended by Executive Order No. 9526 of February 28, 1945, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 33 N., R. 93 W.,

Sec. 3, SW¼NE¼, SE¼NW¼, E½SW½, W½SE¼, SE¼SE¼;
Sec. 10, E½, E½W½, SW¼SW¼;
Sec. 15, N½, E½SE¼, SE½.
The area described contains 1,360 acres in Fremont County, Wyoming.

The purpose of the withdrawal is to protect the Lander Army National Guard Target Range. The withdrawal segregates the land for operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawl.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination of the continuation of the withdrawal will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

P. D. Leonard,

Associate State Director, Wyoming.

[FR Doc. 84-14807 Filed 6-1-84; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Alaska Outer Continental Shelf; Date, Time, and Location of Public Scoping Meeting Regarding the Environmental Impact Statements for Proposed Oil and Gas Lease, Sale No. 100 (Norton Basin) and Sale No. 107 (Navarin Basin)

The March 5, 1984, Federal Register contained a Notice of Intent to prepare an environmental impact statement (EIS) for proposed oil and gas Lease Sale No. 100 Norton Basin. A similar Notice appeared in the April 24, 1984, Federal Register for Lease Sale No. 107, Navarin Basin.

The Notice of Intent for each proposed sale announced the scoping process that will be followed for the preparation of each EIS. The scoping process will involve Federal, State, and local governments and other interested parties aiding the Minerals Management Service in determining the significant issues and alternatives to be analyzed in the EIS. This will be done through scoping meetings.

Since the onshore areas that could be affected by these two proposed lease sales overlap, we are soliciting comments on both sales at the scoping meeting noted below. The area included in each sale is described in the Federal Register notices mentioned above. It is hoped that the information received at the scoping meeting will aid in identifying specific proposals and alternatives.

The scoping meeting will be held as follows:

June 26, 1984

Federal Building, Rooms C-121 and C-122, 701 C Street, Anchorage, Alaska (11:00 a.m.)

Additional information concerning this meeting can be obtained from the Office of the Alaska Region, Leasing and Environment Office, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510, telephone (907) 261-2414.

Dated: May 29, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-14803 Filed 6-1-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30300]

CSX Corporation—Control—American Commercial Lines, Inc.

Decided: May 25, 1984.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of change of date for oral argument.

SUMMARY: Oral argument in this proceeding is rescheduled from June 7, 1984 to June 21, 1984.

DATES: The oral argument will be heard at 9:30 a.m. on June 21, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Notice of the oral argument was published at 49 FR 18630, May 1, 1984.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

By the Commission, Frederic N. Andre, Acting Chairman.

James H. Bayne,

Secretary.

[FR Doc. 84-14812 Filed 6-1-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 73X)]

The Baltimore and Ohio Railroad Co.—Abandonment—In Tuscarawas County, OH; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption for an abandonment under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is the Midvale Branch between valuation station 11+00 near Midvale, and valuation station 32+76.2 at the end of the line, including the Beaver Dam Branch between Point of Switch 0+00 (Midvale Branch valuation station 24+70.3) and valuation station 158+60 at the end of the line, in Tuscarawas County, OH, a total distance of 3.95 miles.

B&O has certified (1) that no local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line or a state or local governmental agency acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or been decided in favor of the complainant within the 2-year period. The Public Utilities Commission (or equivalent agency) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective July 4, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 14, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 25, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

Peter J. Shudtz, Terminal Tower, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if the exemption is conditioned upon environmental or public use conditions.

Decided: May 24, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14843 Filed 6-1-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on June 25, 1984, starting at 8:30 a.m., at the Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia, 22204. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Raymond C. Brown,

Director.

[FR Doc. 84-14853 Filed 6-1-84; 8:45 am]

BILLING CODE 4410-05-M

National Institute of Justice

Advisory Board Meeting

Notice is hereby given that the location of the National Institute of Justice Advisory Board meetings to be held on June 7, 1984 from 9:00 A.M. to 5:00 P.M. and on June 8, 1984 from 9:00 A.M. to 12:00 P.M. at the Holiday Inn Alexandria Old Town Motel, 480 King Street, Alexandria, Virginia has been changed. The new location is the Henley Park Hotel, 926 Massachusetts Avenue N.W., Washington, D.C.

The major items of business will include a status report of FY '84 funding activities, FY '84 Advisory Board activities, and a panel presentation on the American Prosecutor: A View From Within.

The meeting is open to the public. For further information, please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice, Washington, D.C. 20531 (202/724-2942).

Dated: May 22, 1984.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 84-14852 Filed 6-1-84; 8:45 am]

BILLING CODE 4410-18-M

LIBRARY OF CONGRESS

Copyright Office

[Docket RM 84-5]

Compendium of Copyright Office Practices

AGENCY: Copyright Office, Library of Congress.

ACTION: Invitation to comment.

SUMMARY: This is to invite written comment by the public on a new Compendium of Copyright Office Practices which the Copyright Office intends to issue.

Notice: Notice is hereby given that the Copyright Office intends to issue a new Compendium of Copyright Office Practices, designated as Compendium II, under the copyright law which became fully effective on January 1, 1978, including Title 17 of the United States Code and amendments thereto.

An earlier Compendium, now called Compendium I, was issued a number of years ago to reflect Copyright Office practices under the Copyright Act of 1909, as amended. Compendium I applies to Copyright Office actions, in situations which it covers, where the provisions of the Copyright Act of 1909, as amended, are dispositive.

The Compendium is a manual intended primarily for the use of the staff of the Copyright Office as a general guide to its examining and related practices. It is not a book of rules that is meant to provide a ready-made answer to all questions that arise. Any new case presented to the Office may require special analysis.

The practices of the Copyright Office are subject to constant review and modification in the light of new experience and continuing reappraisal. Accordingly, additions, deletions, and other amendments will be made from time to time. The Copyright Office will provide an up-to-date copy of the Compendium for public inspection and copying. The Office will likewise maintain a separate record of all material withdrawn from the Compendium as superseded.

Copies of Compendium II will be available for purchase from the Superintendent of Documents, United States Government Printing Office, as a looseleaf publication. Amendments and supplements will be published by the Superintendent of Documents in the form of additional or replacement pages as such changes are made.

Section 201.2(b)(3) of the Copyright Office Regulations, Title 37 of the Code of Federal Regulations, which are authorized under section 702 of the current copyright law, provides for a compendium of Office practices.

Since the new Compendium runs more than 300 pages, it is not practical to publish this proposed version in the Federal Register. However, it is available for public inspection and copying at the Copyright Office. Also, photocopies of this proposed version are obtainable from the Photoduplication Service of the Library of Congress for $35; remittances in the form of checks or money orders should be made payable to: Chief, Photoduplication Service. In addition, a copy is available for public inspection and copying at the office of the Copyright Society of the U.S.A.

Following the expiration of the period for comment, the Copyright Office intends to consider any comments received, make such changes as are appropriate, and issue the Compendium in the manner described above.

DATE: Written comments on this proposed version should be received before July 10, 1984.

ADDRESSES: The location in the Copyright Office where a copy of the proposed Compendium is available for public inspection and copying is Room LM-401 of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, S.E., Washington, D.C.

The address of the Photoduplication Service is: Photoduplication Service, Library of Congress, Washington, D.C. 20540.

The location of the Copyright Society of the U.S.A. is: New York University Law Center, 40 Washington Square South, New York, New York.

Ten copies of written comments should be addressed, if sent by mail, to: Waldo H. Moore, Library of Congress, Department D. S., Washington, D.C. 20540.

If delivered by hand, copies should be brought to: Office of the Associate Register of Copyrights for Special Programs, Room LM-403 of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Waldo H. Moore, Associate Register of Copyrights for Special Programs, Copyright Office, Library of Congress,

Washington, D.C. 20559. Telephone: (202) 287–8378.

Dated: May 21, 1984.

Waldo H. Moore,

Associate Register of Copyrights for Special Programs.

Donald C. Curran,

Acting Librarian of Congress.

[FR Doc. 84–14804 Filed 6–1–84; 8:45 am]

BILLING CODE 1410–03–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–55]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Meeting

AGENCY: National Aeronautics and Space Administration..

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee.

DATE AND TIME: June 26, 8:30 a.m. to 5:00 p.m.; and June 27, 1984, 8:30 a.m. to 12:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue, SW., Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, Code E, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/453–1420).

SUPPLEMENTARY INFORMATION: The NAC Space Applications Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Applications programs. The Committee is chaired by Dr. Artur Mager and is composed of 25 other members who will meet with several invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons, including Committee members and other participants). Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda

June 26, 1984

8:30 a.m.—Introductory Remarks, Comments on Agenda

9 a.m.—Comparison of Uses of the Space Station outlined in the Space Applications Board's document and in the NASA Space Station Mission Requirements Report

5 p.m.—Adjourn

June 27, 1984

8:30 a.m.—Status of Subcommittee Reports and Activities

10:30 a.m.—In-depth Review of the Remote Sensing Program

12:00 p.m.—Adjourn

Dated: May 25, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–14918 Filed 6–1–84; 8:45 am]

BILLING CODE 7510–01–M

[Notice 84–56]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Informal Advisory Subcommittee on Microgravity Science and Applications; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee, Informal Advisory Subcommittee on Microgravity Science and Applications.

DATE AND TIME: June 25, 8:30 a.m. to 5:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226B, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1420).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Microgravity Science and Applications will meet to conduct an in-depth program review, including the goals, objectives, rationale, and program implementation activities in microgravity science and applications. The Subcommittee is chaired by Dr. Robert F. Sekerka and is composed of 5 members.

The meeting will be open to the public up to the seating capacity of the room (approximately 10 persons, including the Subcommittee members and other participants). Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Dated: May 25, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–14917 Filed 6–1–84; 8:45 am]

BILLING CODE 7510–01–M

[Notice 84–57]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Informal Advisory Subcommittee on Space Systems; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee, Informal Advisory Subcommittee on Space Systems.

DATE AND TIME: June 25, 2:00 p.m. to 5:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 521J, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1420).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Systems will review comments from the Space Application Advisory Committee concerning the Subcommittee's findings. The Subcommittee is chaired by Mr. Charles W. Mathews and is composed of 4 members.

The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons, including Subcommittee members and other participants). Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–14916 Filed 6–1–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel (Dance Companies Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Companies Section) to the National Council on the Arts will be held on June 18–22, 1984, from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: May 25, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-14883 Filed 6-1-84; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 29, 1984, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-14882 Filed 6-1-84; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel Meeting

Pursuant to section 10(a)(2) of Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 20–21, 1984, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 20, from 9:00 a.m.–5:30 p.m. and on June 21, from 10:00 a.m.–5:30 p.m. The topics for discussion will be guidelines and future directions.

The remaining sessions of this meeting will be on June 21, from 9:00–10:00 a.m. and are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-14881 Filed 6-1-84; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 27–28, 1984 from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-14883 Filed 6-1-84; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Advancement Section) to the National Council on the Arts will be held on June 25–26, 1984, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by

grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14904 Filed 6–1–84; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 20–21, 1984 from 9:00 a.m.–5:30 p.m. in room M14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14905 Filed 6–1–84; 8:45 am]

BILLING CODE 7537–01–M

Office of Partnership Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office of Partnership Advisory Panel (State Programs Section) to the National Council on the Arts will be held on June 21, 1984, from 9:30 a.m.–5:00 p.m. and on June 22, 1984, from 9:00 a.m.–4:00 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be Evaluation of Special Jurisdiction Applications, Status of Information Systems, Proposed Criteria for Review of State Support Services Applications, Use of Site Visits and Outside Reviewers and State Programs Five-Year Plan Essay and Applications Review.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14900 Filed 6–1–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of Membership of the National Science Foundation's Senior Executive Service Performance Review board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESS: Comments should be addressed to Director, Division of Personnel and Management, National Science Foundation, Room 212, 1800 G Street, NW., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Mr. John Wilkinson or Ms. Patricia Bond at the above address or (202) 357–7857.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Permanent Membership

Deputy Director (Vacant), Chairperson
Thomas Ubois, Assistant Director for Administration, Acting Chairperson and Executive Secretary

Rotating Membership

Harvey Willard, Head, Nuclear Science Section, Division of Physics, Directorate for Mathematical and Physical Sciences.
Carl W. Hall, Deputy Assistant Director for Engineering
James Fred Hays, Director, Division of Earth Sciences, Directorate for Astronomical, Atmospheric, Earth and Ocean Sciences
Charles E. Falk, Director, Division of Science Resources Studies, Directorate for Scientific, Technological and International Affairs
Alan I. Leshner, Deputy Director, Division of Behavioral and Neural Sciences, Directorate for Biological, Behavioral and Social Sciences
Robert F. Watson, Deputy Director, Division of Precollege Education in Science and Mathematics, Directorate for Science and Engineering Education
William B. Cole, Jr., Director, Office of Small Business Research and Development and Office of Small and Disadvantaged Business Utilization

Dated: May 30, 1984.

Jeff Fenstermacher,

Director, Division of Personnel and Management.

[FR Doc. 84–14798 Filed 6–1–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Combined Subcommittees on Extreme External Phenomena and Reliability and Probabilistic Assessment; Meeting

The Combined ACRS Subcommittees on Extreme External Phenomena and Reliability and Probabilistic Assessment will hold a meeting on June 13, 1984, Room 1167, at 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, June 13, 1984—4:00 p.m. Until the Conclusion of Business

The Subcommittee will review the research being sponsored by the NRC in the areas of earth sciences and reliability and probabilistic assessment in preparation for the ACRS's July, 1984 report to the Commission on proposals for the FY 1986 and 1987 budget.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee

Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other invited persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 30, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR DOC. 84-14893 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Maintenance Practices and Procedures; Postponed

The meeting of the ACRS Subcommittee on Maintenance Practices and Procedures scheduled for June 12, 1984 has been postponed and tentatively rescheduled for August 7, 1984. Notice of the meeting was published Monday, May 21, 1984 (49 FR 21443).

Dated: May 29, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-14895 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on June 19, 1984, Room 1046, 1717 H Street, NW, Washington, D.C. to discuss the process for evaluating equipment qualification programs.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, June 19, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss with the NRC Staff different aspects of the Equipment Qualification Evaluations now being conducted, including a discussion of equipment qualification outside of containment.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other invited persons regarding this review.

Futher information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the congnizant ACRS staff member, Mr. Alan Wang (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 30, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-14894 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

Consumers Power Company (the licensee) is holder of Facility Operating License No. DPR-6 which authorizes operation of the Big Rock Plant (the facility) at steady state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of one boiling water reactor (BWR) located at the licensee's site in Charlevoix County, Michigan. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR 50.45(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR Part 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct an emergency preparedness exercise at least annually to include the full participation of State and local county governments within the plume exposure pathway Emergency Planning Zone (EPZ) for the licensee's facility. Section IV.F.1 of Appendix E requires each licensee to conduct an emergency preparedness exercise at least annually to include the full participation of State and local county governments within the plume exposure pathway Emergency Planning Zone (EPZ) for the licensee's facility.

By letter dated February 13, 1984, the licensee requested an exemption from the requirements of section IV.F.1.a of Appendix E, pertaining only to the exercise participation of State and local governments within the plume exposure pathway EPZ. The last emergency preparedness exercise at the Big Rock Point Plant was conducted on July 25-26, 1983. The licensee will conduct the next exercise at this facility on May 22, 1984. The next exercise involving full participation by Charlevoix and Emmet Counties and partial participation by the

State of Michigan is tentatively scheduled for May 21–22, 1985.

The licensee bases this request for exemption on the previous successful participation of the State of Michigan and the counties of Charlevoix and Emmet in the July 1983 exercise at Big Rock Point. In addition, the licensee points to a recent FEMA determination (FEMA Region V All-State Letter, dated December 27, 1983) that the State of Michigan and Charlevoix and Emmet Counties are eligible to exercise biennially. By letter dated January 18, 1984, the Michigan Department of State Police informed the licensee that the State and local governments would not participate in the Big Rock Point annual emergency exercise scheduled for May 22, 1984. Governments in the July 1983 exercise at Big Rock Point and the FEMA determination and agrees that a full-scale exercise involving State and local governments is not necessary. The staff determined that the agencies demonstrated a capability to respond effectively to nuclear power station emergency conditions. Moreover, the staff notes that the State of Michigan is fully participating at the Fermi 2 Nuclear Plant exercise in June 1984.

Based on the above, the staff has concluded that non-participation by State and local government agencies in the May 22, 1984 emergency preparedness exercise for the Big Rock Point Plant will not adversely affect the overall state of emergency preparedness at the Big Rock Point site and that the requested exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.1.a should be granted.

III

Accordingly, the Commission has determind that, pursuant to 10 CFR 50.12 (a), the exemption requested by the licensee's letter of January 18, 1984, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements that State and local government agencies participate in the emergency preparedness exercise scheduled to be held at the Big Rock Point Plant during May 1984.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 23d day of May, 1984.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-14897 Filed 6-1-84; 8.45 am]

BILLING CODE 7590-01-M

Request for Public Comment on NRC Staff Report to Congress on Improving Quality and the Assurance of Quality in the Design and Construction of Commercial Nuclear Power Plants (Ford Amendment Study), NUREG-1055

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for Public and industry comment.

SUMMARY: The NRC Authorization Act, section 13, Quality Assurance, for fiscal years 1982 and 1983, directed the NRC to conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of nuclear power plants (Ford Amendment Study). The NRC staff carried out the study as required and prepared a report on the study activities and findings. In April 1984 the Commission forwarded the staff report to Congress. In the transmittal letter to Congress, the Commission noted that the report was complex and contained a number of interrelated actions recommended to be undertaken by the Commission. Due to the complexity of the report and the need for the Commission to better understand resource requirements and schedules, the Commission will take additional time to review the report's recommendations before informing Congress of its final decision. As part of this deliberative process, the Commission also indicated an interest in obtaining public comments on the staff report and recommendations. The Commission directed the staff to issue a Federal Register Notice requesting public comments on the staff report's recommendations.

The NRC staff report is entitled Improving Quality And The Assurance Of Quality In The Design And Construction Of Commercial Nuclear Power Plants. Copies of the report are being sent to all NRC licensees holding a construction permit (CP) or an operating license (OL) for commercial nuclear power plants, to all State Public Utility Commissions, and to major nuclear steam supply system vendors. Others may obtain a copy of the NRC staff report (NUREG–1055) by sending a written request to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

DATES: Submit comments by July 20, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to comments received on or before this date.

ADDRESS: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

Hand deliver comments to Room 1121, 1717 "H" Street, NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m.

Examine comments received at: The NRC Public Document Room, 1717 "H" Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. G. Ted Ankrum, Chief, Quality Assurance Branch, Division of Quality Assurance, Safeguards and Inspection Programs, Office of Inspection and Enforcement (301/492–4774).

For the Nuclear Regulatory Commission.

J. Nelson Grace,

Director, Division of Quality Assurance, Safeguards, and Inspection Programs, Office of Inspection and Enforcement.

[FR Doc. 84-14898 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co.; Comanche Peak Steam Electric Station, Units 1 and 2

Notice is hereby given that, by Petition dated March 19, 1984, the Government Accountability Project, on behalf of the Citizens Association for Sound Energy and numerous nuclear workers, sought immediate suspension of the construction permits for the Comanche Peak Facility. The basis for the Petition were alleged serious construction and documentation difficulties at the Comanche Peak Facility including destruction, manipulation, and alleged falsification of documents. The Petition also sought a special NRC inspection, an indepedent design and construction verification program to assess the integrity of the Comanche Peak Quality Assurance Program and a comprehensive independent management audit of the Texas Utilities Generating Company officials. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be

taken on this request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room for the Comanche Peak Facility at the Somervell County Public Library on The Square, P.O. Box 1417, Glen Rose, Texas 76043.

Dated at Bethesda, Maryland, this 24th day of May 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-14839 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensees) for operation of the Edwin I. Hatch Nuclear Plant, Unit 1, located in Appling County, Georgia.

The proposed amendment would provide a one time extension of the surveillance interval applicable to the testing of the drywell and torus headers and nozzles as described in Section 4.5.B.1.a of the Technical Specifications. The proposed extension would increase the grace period from 25% to 30% of the nominal surveillance interval, and also would allow the licensee to perform the required testing at the end of an operating cycle (Cycle 8) scheduled for September 1, 1984. In the absence of this extension, the licensee would be required to shut down the unit on or before June 19, 1984. These revisions to the Technical Specifications would be made in response to the licensee's application for amendment dated May 29, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

A significant increase in the probability or consequences of an accident previously evaluated is not involved in this amendment because:

(a) Chapter 14.4 of the Hatch 1 FSAR showed that operation of the containment spray system is not necessary to maintain the peak pressures under accident conditions in the drywell below the design value.

(b) For the enveloping event, operation of the containment spray changes the temporal behavior of pressure in the primary containment such that the second pressure peak is lower (11.8 psig versus 14.3 psig), with no change in the first pressure peak (approximately 45 psig). The design value of the containment pressure capability is 56 psig. Thus, the primary margin against containment overpressure remains unchanged whether or not the spray system operates.

The possibility of a new or different kind of accident from any accident previously evaluated is not created by approving this amendment because the extension of the surveillance interval does not involve new modes of operation.

The amendment would not involve a significant reduction in a margin of safety for the following reasons:

(a) The period of uncertainty for availability of the spray system is increased from 5 years plus 25% to 5 years plus 30%. The increased probability of unavailability is small.

(b) The increased pressure in the second peak under the design basis accident conditions could increase the leakage out of the drywell. Since the analysis provided in the FSAR envelopes this accident, the decrease in the margin is small.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in an earlier than scheduled shutdown. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the Federal Register at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the Federal Register and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to George Rivenbark, Acting Chief of Operating Reactors Branch No. 4, by collect call to 301-492-7136 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. All comments received by June 18, 1984 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 31st day of May 1984.

For the Nuclear Regulatory Commission.

George W. Rivenbark,

Acting Chief, Operating Reactors Branch No.4, Division of Licensing.

[FR Doc. 84-15024 Filed 6-1-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13964; (811-3461), (811-3463), (811-3464)]

Federated Equity Trust, et al. Filing of Applications for Orders Pursuant to Section 8(f) of the Act Declaring That Applicants Have Ceased To Be Investment Companies

May 25, 1984.

Notice is hereby given that Federated Equity Trust ("Equity"), Federated Money Market Trust ("Money Market"), and Federated Bond Trust ("Bond"), 421 Seventh Avenue, Pittsburgh PA, 15219, all registered as open-end, diversified, management investment companies under the Investment Company Act of

1940 ("Act"), filed applications on October 12, 1983, for orders, pursuant to Section 8(f) of the Act, declaring that they have ceased to be investment companies as defined in the Act. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

On May 10, 1982, Equity registered under the Act on Form N-8A and, on the same day, filed its registration statement, pursuant to the Act and the Securities Act of 1933 ("1933 Act"); on May 17, 1982, both Bond and Money Market registered under the Act on Form N-8A, and, on the same day, filed their registration statements, pursuant to the Act and the 1933 Act. The applications indicate that none of these registration statements has ever become effective, nor has there ever been a public offering of any of their respective securities. Applicants represent that, pursuant to the approval of their respective Trustees, and in accordance with the laws of the Commonwealth of Massachusetts, each was terminated and ceased to exist as of September 1, 1983, engaging only in those activities necessary for winding-up their affairs.

Notice is further given that any interested person wishing to request a hearing on any of the applications may, not later than June 19, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, the orders disposing of the applications will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14836 Filed 6-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20994; File No. SR-OCC-84-6]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corp.

May 25, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. §78s(b)(1), notice is hereby given that on April 24, 1984, the Options Clearing Corporation ("OCC") filed with the Securites and Exhange Commission the proposed rule change as described below. The Commission is published this notice to solicit comments on the proposed rule change from interested persons.

Under OCC's Options Pledge Program (the "Program"), OCC clearing members can pledge their unexercised long specialist and market-maker options positions as collateral for loans from other clearing members or non-clearing member banks.[1] As initially approved by the Commission, OCC Rule 614, which governs the Programs, enables clearing members to pledge those positions to more than one pledgee.[2] However, Interpretation and Policy .02 to Rule 614 has limited each member's pledge activity to only one pledgee.[3]

OCC's proposed rule change repeals Interpretation and Policy .02 and amends OCC Rule 614 to define more clearly the rights and obligations of pledgors and multiple pledgees when options initially are pledged and when pledged options subsequently are exercised or sold. To protect pledgees and to preserve the value of collateral, the proposal gives pledgees priority over the pledgor for proceeds from exercises and sales of pledged options.

The proposal requires clearing members desiring to pledge their long specialist and market-maker options positions to keep separate accounts for each pledgees and to order the pledge accounts (first pledge account, second pledge account, etc.). Each pledgee after the first must consent to its order designation, and any change in that order must be approved by all affected pledgees. OCC will use this order designation to transfer options positions from the pledgor's own account, i.e., its "primary account," to pledge accounts. Thus, a clearing member's instructions to pledge a certain position will result in transfer of options from the primary account to the first pledge account up to the instructed amount, then to the second pledge account, etc., until the pledgor's instructions are fulfilled or the pledgor's position in its primary account is completely transferred.

OCC also will use the order designation to allocate exercises and sales of pledged options among multiple pledge accounts.[4] Exercises of options by a pledgor are allocated first to the primary account, then to the last pledge account (the account with the highest numerical order designation), and then in descending order with options in the first pledge account being exercised last. After all exercise instructions by a pledgor are carried out and exercises are allocated among the primary account and pledge accounts, sales instructions by the pledgor will be carried out. Sales will be allocated among the primary account and pledge accounts using the same formula as exercise instructions. Excess sales instructions create a short position in the primary account.

OCC Rule 614 continues to provide that when a pledged option is exercised or sold, the pledgor's position is deemed "overpledged," and the pledgor must pay OCC an "overpledged value amount" [5] for deposit to a bank account of the pledgee whose pledge account was initially allocated the exercise or sale.[6] If that amount is not received, OCC will suspend the pledgor.[7] Under

[1] The Program was initially implemented pursuant to a Commission Order Approving Proposed Rule Change in File No. SR-OCC-82-25. *See* Securities Exchange Act Release No. 19956 (July 19, 1983), 48 FR 33956 (July 26, 1983). OCC created the Program to facilitate clearing members' financing of their specialist and market-maker positions.

[2] While a member may pledge options to more than one pledgee, no option contract may be pledged to more than one pledgee at the same time. *See* Securities Exchange Act Release No. 19956 and File No. SR-OCC-82-25 for a detailed description of Program.

[3] Interpretation and Policy .02 was adopted by OCC to simplify operation of the Program until OCC and its clearing members gained experience with it. OCC now believes it can expand the Program.

[4] To preserve liquidity of members' positions, OCC Rule 614 allows pledged options to be freely exercised or sold by the pledgor.

[5] The overpledged value amount is the product of the unit of trading for the series of the pledged options, multiplied by the current highest asked per unit premium quotation for options of that series at or about the close of trading on the preceding business day.

[6] Before a pledge account can be established, OCC Rule 614 requires a pledgee to designate an account with an OCC clearing bank to accept cash deposits related to the Program (a "deposit account").

[7] When the overpledged value amount is not paid by the pledgor, OCC Rule 614 directs OCC to debit the pledgor's settlement account for the overpledged value amount and to deposit that amount in the proper pledgee deposit accounts. OCC states in its filing that it anticipates that the suspension and reallocation procedure, described below, would be triggered only when a pledgor is in serious financial difficulty and therefore is unable to pay the overpledged value amount.

OCC's proposal, exercises and sales then will be reallocated first to the primary account to the extent of the pledgor's long position in that account in the options series exercised or sold, and then among all pledge accounts in proportion to the number of options each pledge account contains in the same series. Exercises will be reallocated before sales.

Following reallocation, proceeds from exercises and sales will be paid into pledgees' deposit accounts and the pledgor's settlement account according to the following formulae. These payments are intended to replace as much as possible the value of pledgees' collateral for underlying loans. For exercises, OCC will direct clearing members to whom exercise notices were assigned to close-out the contracts through a buy-in or sell-out under OCC Rules 910 and 911. Amounts received from close-outs [8] must be paid to OCC for deposit first to pledgee deposit accounts in proportion to the number of exercises reallocated to the corresponding pledge account, then to the pledgor's settlement account. Pledgees have priority over the pledgor. Therefore, larger amounts paid by assigned clearing members, on a per option basis, are paid to pledgee deposit accounts in descending order and lesser amounts are paid to the pledgor's settlement account. For sales, proceeds of the sale are allocated first among pledgee deposit accounts and then to the pledgor's settlement account, in proportion to the number of sales reallocated to each pledgee and the pledgor. Pledgees again have priority over the pledgor. Therefore, proceeds from higher priced sales are paid to pledgee deposit accounts in descending order and proceeds from lower priced sales are paid to the pledgor's settlement account. For both exercises and sales, any amount received by a pledgee exceeding that pledgee's claim against the pledgor for underlying loans must be returned to OCC.

OCC believes that the proposal is consistent with Section 17A of the Act because it promotes the prompt and accurate clearance and settlement of options transactions by facilitating clearing members' financing of their long market-maker and specialist options positions. OCC states in its filing that OCC Rule 614, as amended by this proposal, continues to insure that the Program adequately protects the rights and obligations of pledgees and clearing members pledging options and OCC's system of financial safeguards.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR-OCC-84-6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-14934 Filed 6-1-84; 8:45 am]

BILLING CODE 8010-01-M

[8] Amounts received from the close-out would be either (a) the amount by which the exercise settlement amount exceeds the price paid for the securities bought in (in the case of a put) or (b) the amount by which the price received for the securities sold out exceeds the exercise settlement amount (in the case of a call).

[Release No. 20993; File No. SR-PSDTC-84-5]

Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Securities Depository Trust Co.

May 25, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 30, 1984, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described therein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises PSDTC's fees for certain major services and incorporates new fees for services PSDTC is currently providing at no cost or significantly below cost. The revised fee schedule increases the fees for a number of existing services including: secondary depository accounts, odd-lot withdrawals and additions and deletions of names under the signature card distribution program. To recover cost for those services currently provided at no cost, PSDTC has also included in the revised fee schedule new fees for tape output and data transmissions, invalid dividend claims, transfer status requests, document preparation, signature card maintenance and participant training. In addition, to encourage more automated processing, PSDTC has reduced its fee for automated transfers and increased its fees for manually executed transfers. PSDTC believes the proposed rule change is consistent with Section 17A of the Act because the fee changes better reflects PSDTC's service costs.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-84-05.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-14835 Filed 6-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20989; File No. SR-AMEX-84-13]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to a Proposed Options Trading Permits Plan

Pursuant to Section 10(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 14, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing to implement an Options Trading Permits Plan, which is intended to add 108 options traders to the Floor. Initially these traders would have two-year Options Trading Permits ("OTPs") entitling them to trade non-equity options. For a $20,000 privilege fee, they could elect to expand their trading privileges to include individual options. The trading permits would be made available through the issuance by the Exchange of one "options right" to every regular and options principal member. Such rights could be purchased or sold by members or non-members for a 60-day period in an Echange-administered market. A total of seven rights would be required to obtain an OTP. For the 60 days prior to the end of the permit period, the beneficial owner of the OTP would be able to purchase an options principal membership for $100,000 (the proceeds for which will be distributed 80% to the membership and 20% to the Exchange), or to let the OTP expire.

In order to implement the Plan, it will be necessary to amend the Exchange's Constitutions to increase the authorized number of options principal memberships and to provide for the qualifications, rights and obligations of OTP holders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (a), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

In recent months, the Exchange has been considering whether it has a sufficient body of registered options traders to maintain competitive markets in index products, particularly in light of the CBOE's numerical advantage in traders and the New York Stock Exchange's superior financial resources. In addition, the Exchange faces fundamental competitive challenges in the individual stock options arena.

After studying these issues, the Exchange has concluded that to compete effectively it will need more options traders, and is therefore proposing a plan to provide increased access to its options products.

In order to implement the Plan, the Exchange's Constitution will have to be amended to increase the authorized number of options principal memberships and to provide for the qualifications, rights and obligations of options trading permit ("OTP") holders.

The essential elements of the Plan are as follows.

Options Rights. Each of the 661 regular and 95 options principal members of the Exchange (756 total members) would be issued one options right, which would represent one-seventh of an OTP. In the case of a leased membership, the right would be issued to the lessor, unless the lease provides otherwise.

The rights would have a life span of 60 days from issuance. During this period they could be freely traded in an Exchange-administered auction market, similar to the current seat market, or could be privately traded. The value of the rights would thus be determined by supply and demand. Non-members as well as members could bid for the rights, provided they file with the Exchange a "statement of intent" to acquire enough rights to obtain an OTP.

OTP Activation. A person owning seven options rights may have them converted into an OTP at any time during the 60-day offering period by delivering to the Exchange a notice signifying his election to exchange his rights for an OTP and his intention to activate his OTP promptly.[1] In order to initiate activation of an OTP, a person must file with the Exchange an application for approval as an OTP holder and pay a processing fee of $500. If he fails to initiate activation of his OTP within 90 days from the close of the offering period, his OTP will expire.

Each OTP must be held in the name of a separate natural person nominee who can qualify as an options principal member. Nominees holding permits owned by another person must be associated with that person in a firm or corporation. An OTP holder affiliated with a firm or corporation must qualify it as a member organization. Persons acquiring OTPs, and electing to name and qualify a nominee, must do so within 90 days from the end of the rights offering. If they fail to do so by the expiration of the 90 days, they will forfeit the OTP.

A person who has acquired an OTP (or his nominee) may not trade until his application has been approved by the Exchange. All OTP applicants who have not already participated in an Exchange-administered training program and passed a qualifying examination must complete these requirements.

If a timely filed application is rejected by the Exchange, the beneficial owner of the OTP shall have ten days from

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[1] If a person owning five or six rights is unable to acquire enough rights to obtain an OTP he may be permitted to acquire by OTP by converting his options rights and making a further payment to the Exchange ("partial conversion"). He may do so only if on the last day of the offering period, he can demonstrate that he made a good faith effort to acquire seven rights by bidding therefor at a minimum price calculated as specified in the Plan. In any event, the Exchange shall issue only 108 OTPs. If the number of persons seeking partial conversions would result in the issuance of more than 108 OTPs, the Exchange shall conduct a lottery among such persons so that the total number of OTPs will not exceed 108.

receipt of the rejection notice to designate another person as his nominee and to cause the nominee to file a new application together with a processing fee of $500. Failure to file an application or pay the fee within the ten-day period shall result in the termination of the OTP.

OTP Privileges. An OTP holder will be entitled to trade as principal in all non-equity options listed on the Exchange from the date his OTP is activated until the date which is two years from the expiration of the 60-day rights offering period. At any time after the first six months following the close of the offering period, an OTP holder may elect to expand his trading privileges to include individual stock options. An individual making this election would be required to pay a $20,000 privilege fee. The Board would also be empowered, upon the unanimous recommendation of the Floor governors, to extend full options trading privileges to OTP holders. If it exercises this authority, the $20,000 privilege fee would be waived, but there would be no refund of privilege fee payments previously received by the Exchange from OTP holders who had elected to expand their trading privileges.

An OTP may be transferred to any time during its life upon approval by the Exchange of the transferee. The Exchange will maintain a market in OTPs during this period. However, an OTP may not be leased pursuant to a special transfer agreement.

OTP holders will not be entitled to participate in any distribution of the assets of the Exchange on dissolution or liquidation, and will not be entitled to vote on any matter on which the membership of the Exchange is entitled to vote.

Membership Purchase Election. For the 60 days prior to the conclusion of the permit period, any qualified OTP holder may make application to acquire from the Exchange one options principal membership for each OTP owned. Failure to make election by the final day of the permit period would result in the forfeiture of the right to purchase. An OTP holder who elects to purchase an options principal membership must pay the Exchange $100,000 in two installments: The first $50,000 must be paid upon exercise of the option; the second $50,000 must be paid one year thereafter. Any OTP holder who previously paid a $20,000 privilege fee to expand his trading privileges would be allowed to credit the full fee against the $100,000 purchase price.

The proceeds from the sale of these new memberships and the payment of privilege fees would be divided between the Exchange and the then current regular and options principal members. The Exchange would retain 20% of the sale proceeds while the remaining 80% would be equally divided among the 661 regular and 95 options principal members, with both regular and options principal members receiving equal shares.

(2) Basis

The proposed Options Trading Permits Plan and Constitutional amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Sections 6(b)(2) and 6(b)(5) in particular in that they will broaden access to the Exchange's options market and help perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that no burden on competition will be imposed by its proposed Options Trading Permits Plan. On the contrary, the Exchange proposal to allow additional access to its options market will enhance competition among registered options traders within its market, and thus increase competition between the Exchange and other markets.

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to the file number in the caption above and should be submitted by June 25, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 24, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14303 Filed 6-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20990; File No. SR-NYSE 84-18]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Index Group Options Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OPTIONS FACILITY OPERATION FEES

Options clerk ticket fee	
Per annum charge:	
Regular	$330.00
Premium	715.00
Options floor telephone fee—per annum/each private line.	600.00 ($600.00)
Options floor booth fee—per annum.	3,000.00 (2,000.00)

OPTIONS TRADING RIGHT FEES

Options trading right transfer charge	5 percent of purchase price but in no case more than $5,000.00
Options trading badge—per annum	$300.00 [$15.00]

The new fees and increased rates will be effective July 1, 1984.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filling the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The purpose of this proposed rule change is to establish and adjust fees to offset in part the ongoing costs of operating a facility for the trading of options contracts and, in the case of the trading right fees, to offset the cost of maintaining a market for, and processing transfers of, options trading rights. Both the proposed new charges and the increased charges are comparable to similar fees collected by other options exchanges.

The rate increases for Floor telephones, booths and badges more accurately reflect the Exchange's costs of providing such services than do the current rates. In particular, the present trading badge fee is out of step with the Exchange's expenses. The $15 per annum charge merely covers the cost of manufacturing the badge, but does not cover any administrative costs. The other rate increases are more modest, but share the aim of helping to offset the Exchange's administrative and operating expenses for the trading of options contracts.

(2) *Statutory Basis*—The basis under the 1934 Act for this proposed rule change is the requirement of section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 25, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 24, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14909 Filed 6-1-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2135; Amdt. No. 1]

Kentucky; Declaration of Disaster Loan Area

The above numbered declaration (49 FR 21816) is amended in accordance with the President's declaration of May 15, 1984, to include Casey, Estill, Harlan, Johnson, Lee, Owsley, Pulaski, Wayne, and Adair Counties in the State of Kentucky as a result of damage from high winds, tornadoes, and flooding beginning on or about May 6, 1984. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on July 16, 1984, and for economic injury until the close of business on February 15, 1985.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 25, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-14888 Filed 6-1-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2139]

Declaration of Disaster Loan Area; Oregon

Malheur County in the State of Oregon constitutes a disaster area because of damage caused by snowpack runoff and flooding which occurred on April 16-26, 1984. Applications for loans for physical damage may be filed until the close of business on July 30, 1984, and for economic injury until the close of business on February 28, 1985, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, CA 95825, or other locally announced locations.

Interest rates are: Homeowners with credit available elsewhere, 8.000 percent; homeowners without credit available elsewhere, 4.000 percent; businesses with credit available elsewhere, 8.000 percent; businesses without credit available elsewhere, 4.000 percent; businesses (EIDL) without credit available elsewhere, 4.000

percent; and other (non-profit organizations including charitable and religious organizations), 10.500 percent.

The number assigned to this disaster is 213906 for physical damage and for economic injury the number is 617500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 29, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-14889 Filed 6-1-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2140]

Declaration of Disaster Loan Area; Virginia

As a result of the President's major disaster declaration, I find that the Counties of Buchana, and Dickenson in the State of Virginia constitute a disaster loan area because of damage from severe storms and flooding which occurred on May 6, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 23, 1984, and for economic injury until February 25, 1985, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, Georgia 30303, or other locally announced location.

Interest rates are: Homeowners with credit available elsewhere, 8.000 percent; homeowners without credit available elsewhere, 4.000 percent; businesses with credit available elsewhere, 8.000 percent; businesses without credit available elsewhere, 4.000 percent; businesses (EIDL) without credit available elsewhere, 4.000 percent; and other (non-profit organizations including charitable and religious organizations) 10.500 percent.

The number assigned to this disaster is 214006 for physical damage and for economic injury the number is 617600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 25, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-14937 Filed 6-1-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-84-9]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before June 25, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 25, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
24062	Pan Aviation Inc.	14 CFR 91.303	To allow petitioner to operate four Stage 1 Boeing 707 aircraft in noncompliance with the operating noise limits until December 31, 1987, or twelve months after the availability of quiet nacelles, whichever is first.
23653	The University of North Dakota	14 CFR 91.303	To amend Exemption 3925 to permit the petitioner to train certain students to a performance standard without meeting the prescribed minimum flight time requirements subject to certain conditions and limitations. The amendment would revise condition No. 3 of the exemption covering endorsement removal procedures.
24063	CoaEnga Corp.	14 CFR Portions of Parts 21 & 91	To permit petitioner to operate certain aircraft using an FAA-approved minimum equipment list.
24065	Transair, Inc.	14 CFR 141.5(b)	To permit petitioner to be issued a pilot school certificate even though it has not trained and recommended at least 10 applicants for pilot certification and rating tests within the preceding 24 months.
24058	Alaska Helicopters, Inc.	14 CFR 135.423(a) & 135.435(a)	To permit petitioner to utilize British Airways Helicopters, Ltd (BAH), as an overhaul facility for its Boeing Vertol 234 components.
24056	Aviation Methods, Inc.	14 CFR 61.58(c)	To permit petitioner to complete the entire 24-month pilot-in-command check in an FAA-approved simulator.
21776	Watcha McCollum Aviation Inc.	14 CFR 61.58(c)(1) & 91.4	To permit petitioner to serve as pilot in command on certain large aircraft without completing the required proficiency checks in each particular type of aircraft.
16784	Houston Helicopters, Inc.	14 CFR 43.3(h)	To extend Exemption 2445C to permit petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on its Allison 250-C series turbine engines, installed on Bell Model 206 helicopters.
12468	Petroleum Helicopters, Inc.	14 CFR 43.3(h)	To extend Exemption No. 1821H which permits petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on the Allison 250-C series turbine engine, tail rotor gear boxes, and transmissions installed in its Bell Model 206 and Boeing Model BO-105 helicopters.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23949	Jet Aviation of America, Inc	14 CFR 91.191 & 135.165	To allow the operation of a Dassault Falcon 10 airplane in extended overwater operations with only one VLF/Omega long-range navigation system and one high-frequency communication system.
24036	Bar Harbor Airlines	14 CFR 135.157	To allow petitioner to operate its Beech Model 1900 airplanes at 25,000 feet mean sea level with an oxygen system providing oxygen to both crewmembers plus 10 percent of the passengers.
24006	Volpar Inc	14 CFR 21.19(b)(1)	To allow petitioner to modify the Lockheed 1329 Jetstar aircraft from a four-engine configuration to a two-engine configuration without having to obtain a new type certificate.
23930	Memorial Research Center & Hospital	14 CFR 45.27(a), 45.29(b)(3), & 45.29(f)	To allow petitioner to operate a Bell 222 U.T. helicopter in medical air ambulance service displaying 6-inch registration markings.
23960	Air National	14 CFR 121.371(a) & 121.378	To allow petitioner to contract with Swissair, KLM, SAS, and UTA for the inspection, repair, and overhaul of its B747-200 aircraft, airframe, engine, appliances, and parts.
24039	Falconair	14 CFR 135.89(b)(3)	To allow operations of Gulfstream II aircraft up to and including 41,000 feet mean sea level without requiring at least one pilot seated at the controls to wear, secured and sealed, an oxygen mask.
23607	Herman Miller, Inc	14 CFR 21.181	To amend and extend Exemption 3808 to permit petitioner to obtain a supplemental type certificate covering the operation of Lear 35A aircraft in accordance with the FAA-approved minimum equipment list. The amendment would add a Lear 55 aircraft to that exemption.
24048	Pakistan Int'l Airlines	14 CFR 91.169	To permit petitioner to operate a leased Boeing 747 aircraft using an FAA-approved master minimum equipment list and an FAA-approved continuous airworthiness maintenance program.
84-ASW-20	Bell Helicopter	14 CFR 27.695(a)(1)	To allow type certification of the Bell Model 400 normal category helicopter without considering the effects of a jammed hydraulic control actuator spool valve in the neutral position.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23715	Mountain West Helicopters	14 CFR 43.3(h)	To allow petitioner's appropriately trained and certificated pilots to remove, check, evaluate, and reinstall magnetic chip detector plugs in the Allison 250C series turbine engine, aircraft transmission, and tail rotor gearbox installed on its Bell 206 series helicopters. *Granted 5/10/84.*
23918	Int'l Business Machines Corp	14 CFR 21.181	To allow petitioner to operate four Gates Learjets Model 55 aircraft, N723H, N724J, N725K, and N726L, using an FAA-approved minimum equipment list. *Granted 5/2/84.*
23908	Piedmont Airlines	14 CFR 121.371(a) and 121.378	To allow petitioner to use engines, components, and spare parts, on its Fokker F-28 aircraft, that have been manufactured, repaired, overhauled, or inspected by persons outside of the U.S. who do not hold U.S. airmen certificates. *Granted 5/9/84.*
15691	Air Logistics	14 CFR 43.3(h)	To allow petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in its Allison 250C series turbine engines, aircraft transmissions, and tail rotor gearboxes installed on the Aerospatiale 355, Bell 206, 212, and 412 series helicopters. *Granted 5/10/84.*
21518	Type Rating Training	14 CFR 61.63(d)(2) and 61.157(d)(1)	To allow trainees of petitioner, who are applicants for a type rating to be added to any grade of pilot certificate, to substitute the practical test requirements and to complete a portion of that practical test in a simulator as authorized by § 61.157. *Granted 5/4/84.*
23927	Helicopters Unlimited, Inc	14 CFR 141.35(d)(3)(i)	To allow petitioner to designate Mr. Kenneth Suzuki as an assistant chief flight instructor (ACFI) although he does not meet the prescribed experience requirements of Part 141. *Denied 5/11/84.*
23845	American West Airlines	14 CFR 91.307	To amend Exemption No. 3879a to add 3 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 2 B-737:N135AW, N136AW; and until not later than January 1, 1988: 3 B-737:N701AW, N702AW, and N703AW. *Granted 5/2/84.*
23925	Gulfstream Aerospace Corp	14 CFR 23.49(b)(1)	To permit type certification of the Gulfstream Model 1500 single engine pressurized Fan Jet airplanes with a stall speed greater than 61 knots. *Denied 5/11/84.*
24057	Cascade Airways	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 2 BAC 1-11: C6-BDJ; C6-BDP. *Granted 5/21/84.*
23901	General Motors Corp	14 CFR 21.181	To permit petitioner to operate certain aircraft using an FAA-approved minimum equipment list. *Granted 5/17/84.*
23928	Mead Corp	14 CFR 21.181	To permit petitioner to operate two Falcon 20 aircraft using an FAA-approved minimum equipment list. *Granted 5/17/84.*
24074	Soloy Conversions	14 CFR 21.195(b)	To permit petitioner to apply for an experimental certificate for market surveys, sales demonstrations, or customer crew training of a turbine-engine model of the Cessna 207 developed by petitioner. *Granted 5/15/84.*
23808	Lone Star Helicopters, Inc	14 CFR 43.3(h)	To allow petitioners appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in the Allison 250 series turbine engine, aircraft transmission, and tail rotor gearbox installed on Bell 206 series helicopters operated by Lone Star Helicopters, Inc. *Granted 5/10/84.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23483	Reeder Flying Service, Inc	14 CFR 64.28	To amend Exemption 3749 to reflect the company name as Reeder Flying Service, Inc., Commercial Operating Certificate SOL-13AT. Also to extend Exemption 3749 because of petitioner's commercial operating certificate and a continuing need to have appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in the Allison 250C series turbine engine, aircraft transmission, and tail rotar gearbox installed on Bell 206B helicopters. *Granted 5/15/84.*

[FR Doc. 84-14812 Filed 6-1-84; 8:45 am]
BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Te Maori: Maori Art from New Zealand Collections" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between The American Federation of Arts, New York, N.Y., and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, New York, beginning on or about September 10, 1984, to on or about January 6, 1985; the Saint Louis Art Museum, St. Louis, Missouri, beginning on or about February 22, 1985, to on or about May 26, 1985; and the M. H. de Young Memorial Art Museum, San Francisco, California, beginning on or about July 6, 1985, to on or about December 1, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: May 30, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-14914 Filed 6-1-84; 8:45 am]
BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 108
Monday, June 4, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission meeting, Wednesday, June 6, 1984, 10:00 a.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: 1. FOIA Regulations; Proposed Amendment.

The staff will brief the Commission on a proposal to amend and reorganize existing Freedom of Information Act Regulation (16 CFR, Part 1015).

STATUS: Closed to the Public.

2. FOIA Appeal: OS No. 5786

The Commission will consider FOIA Appeal OS No. 5786.

3. FOIA Appeal: OS No. 5379

The Commission will consider FOIA Appeal OS No. 5379.

For a recorded message containing the latest agenda information, call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800

May 30, 1984.

Sheldon D. Butts,

Deputy Secretary

[FR Doc. 84-14938 Filed 5-31-84; 12:14 pm]

BILLING CODE 6355-01-M

2

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. An executive session to discuss pending litigation will follow the meeting on June 6. This session will be closed to the public.

TIME AND DATE: June 6 and 7, 1984, 9:00 a.m.

PLACE: Hilton Hotel, Portland, Oregon.

MATTERS TO BE CONSIDERED:

Preliminary Council Decision on Columbia Basin Fish and Wildlife Program Action Plan.

Council Approval of Release of Draft Amendment Document for the Columbia River Basin fish and Wildlife Program.

Water Budget Accounting.

Council Comments on Bonneville Power Administration's FY 86-87 Program Plans.

Staff Presentation on Proposed Power Plan Amendments Rulemaking.

Staff Presentation and Public Comment on Northwest Power Planning Council FY 1986 Budget and FY 1985 Revisions.

Council Business.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-14939 Filed 5-31-84; 11:53 am]

BILLING CODE 0000-00-M

3

POSTAL RATE COMMISSION

TIME AND DATE: 12:30 p.m., Thursday, June 7, 1984.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C. 20268.

STATUS: Open.

MATTERS TO BE CONSIDERED: Leasing of Commission office space.

Charles L. Clapp,

Secretary.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254-3880.

[FR Doc. 84-14932 Filed 5-31-84; 11:28 am]

BILLING CODE 7715-01-M

Federal Register

Monday
June 4, 1984

Part II

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Public Hearing Regarding Test Procedures for Dishwashers; Proposed Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CE-RM-82-130]

Energy Conservation Program for Consumer Products; Proposed Rulemaking and Public Hearing Regarding Test Procedures for Dishwashers

AGENCY: Office of Conservation and Renewable Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) hereby proposes to amend the test procedures for dishwashers by revising the definition of water heating dishwashers. Test procedures are one part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products.

DATES: Written comments in response to this notice must be received by July 5, 1984; requests to speak at the public hearing must be received by June 15, 1984; speakers will be notified by June 18, 1984; statements must be submitted by June 20, 1984; the public hearing will be held on Thursday, June 21, 1984, at 9:30 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and copies of statements of each speaker are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Dishwasher Test Procedures, Docket No. CE-RM-82-130, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The public hearing will be held at Room 1E-245, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the transcript of the public hearing, and the public comments received may be read in the DOE Freedom of Information Reading Room, Room 1E-190, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station, CE-112.1, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-33, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9513

U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9319

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1977, section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91) transferred the functions of the Federal Energy Administration (FEA) concerning the energy conservation program for consumer products, to the Department of Energy (DOE). The energy conservation program for consumer products was established by the FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). Subsequently, EPCA was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). Among other program elements, Section 323 of the EPCA as amended requires that standard methods of testing be prescribed for covered products, including dishwashers. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures for dishwashers were first published on August 8, 1977. (42 FR 39964, Aug. 8, 1977). These test procedures were then amended on March 3, 1983 in order to accurately determine the estimated annual operating cost and the energy factor for water heating dishwashers (dishwashers that operate with 120°F inlet water). (48 FR 9202, Mar. 3, 1983). The key distinction between water heating dishwashers and other types of dishwashers is that water heating dishwashers wash dishes satisfactorily with 120°F inlet water. Other dishwashers require 140°F inlet water.

II. Discussion

1. *Water heating dishwashers.* In 1983, DOE amended the test procedures for dishwashers. The May 1982 proposed rulemaking was based upon problems in the earlier test procedures from which several manufacturers had obtained relief. One manufacturer had been granted an exception to the dishwasher test procedures for its water heating dishwasher and two manufacturers had been granted test procedure waivers for their water heating dishwashers. The DOE Office of Hearings and Appeals (OHA) granted an exception to the Hobart Corporation (Hobart) for its KD-19 Series dishwasher on February 26, 1980. The Department granted a test procedure waiver to Norris Industries (Norris) for its LER Series dishwasher. (46 FR 35719, July 10, 1981). A test procedure waiver was also granted to the General Electric Company (GE) for its "T" Series dishwasher. (47 FR 23543, May 28, 1982). DOE proposed amendments to the test procedures to address these concerns. (47 FR 26143, June 17, 1982).

During this rulemaking, GE commented that water heating dishwashers operate satisfactorily on 120°F inlet water because the 120° inlet water is heated internally by the dishwasher to a level sufficient to achieve excellent washing and drying results. Commenting on the 1982 proposed rule on water heating dishwashers, Design and Manufacturing Corporation (D&M), Sears, Roebuck and Co. (Sears), and Whirlpool Corporation (Whirlpool) stated that it would be important to identify that water heating must take place during the normal cycle washing phase(s) for proper washing performance, although it would not be necessary that all of the water used during the normal cycle be heated. These commenters stated that at least one wash phase and at least one rinse phase should be thermostatically controlled. These thermostatically-controlled wash and rinse phases would delay the normal cycle until the wash or rinse water had been heated to its required temperature. Dishwashers that use 140°F water typically do not have thermostatically-controlled water heaters; these dishwashers may heat the water continuously for the wash and rinse phases.

DOE received no comments contrary to those suggesting that water heating take place during the rinse phase. During the rulemaking, no manufacturer commented that the requirement of providing thermostatically-controlled internal water heating in at least one rinse phase of the normal cycle was not appropriate for water heating dishwashers. Therefore, the requirement of providing internal water heating in one rinse phase was included in the amended dishwasher test procedure. Accordingly, DOE amended the dishwasher test procedure in 1983 to include a definition of water heating dishwashers:

"Water heating dishwasher" means a dishwasher that can operate at a nominal inlet water temperature of 120°F by providing thermostatically-controlled internal water

heating in at least one wash phase and one rinse phase of the normal cycle.

One purpose of the test procedures amendment was to establish test procedures appropriate for water heating dishwashers, including ones manufactured by GE and Hobart. Today, DOE is proposing to delete the requirement of providing thermostatically-controlled internal water heating in the rinse phase of the normal cycle from the definition for water heating dishwashers.

After publication of the final rule amending the test procedures, both GE and Hobart, manufacturers of water heating dishwashers, commented to DOE that their water heating dishwashers would not comply with this definition because their water heating dishwashers do not provide internal water heating in the rinse phase of the normal cycle. GE recommended the following definition:

"Water heating dishwashers" means a dishwasher that can operate at a nominal inlet water temperature of 120°F by providing sufficient internal water heating in at least one wash phase to achieve the washing performance of the normal cycle.

GE contended that by requiring a water heating dishwasher to achieve the washing performance of the normal cycle, the measures of energy consumption for these dishwashers would be directly comparable to dishwashers which use 140°F inlet water. DOE believes the definition suggested by GE has merit. However, the requirement that a dishwasher should "achieve the washing performance of the normal cycle" could apply to cycles other than the normal cycle, as long as these cycles satisfy this requirement. For example, if a light duty cycle achieved the washing performance of a normal cycle, the water heating dishwasher could then be tested under the light duty cycle in lieu of the normal cycle. The measures of energy consumption for this dishwasher would not be comparable to measurements for dishwashers which use 140°F water because the light duty cycle typically uses less water than a normal cycle. This would result in a much lower estimate of annual operating cost than if the same dishwasher was tested with the normal cycle. Therefore, today's definition for water heating dishwashers does not include the requirement set forth by GE to avoid confusion by manufacturers concerning which cycle should be used for testing the dishwasher.

DOE is interested in receiving comments concerning both DOE's and GE's definitions of a water heating dishwasher.

GE further commented that the requirement of thermostatically-controlled internal water heating was too restrictive and does not cover its water heating dishwashers. GE mentioned that other means of controlling internal water heating are available, such as a thermistor sensor coupled to an electronic control or a mechanical timer to delay the wash phase.

Water heating dishwashers utilize internal heaters that shut off after the water has been heated to a certain level—other types of dishwashers do not have such a control. Water heating dishwashers use less energy than dishwashers that use high temperature water for all cycles. Thus, a key distinction between water heating dishwashers and other dishwashers is a control that shuts off the internal heater(s) after the water has been heated to a certain level. A thermostatically-controlled heater is one type of control that meets this requirement. GE commented that a thermistor sensor coupled to an electronic control also meets this requirement. DOE believes that a thermistor sensor is a type of a thermostat control. DOE believes that a thermistor is equivalent to a thermostat and therefore sees no basis for adding thermistor sensors to the definition for water heating dishwashers.

GE also commented that a mechanical timer could be used for water heating dishwashers in lieu of a thermostatically-controlled device. DOE believes that timers may be used on any dishwasher, including water heating dishwashers. Defining water heating dishwashers to include those that use mechanical timers would mean that the testing provisions for water heating dishwashers would be applicable to dishwashers that use 140°F inlet water. In order to preclude inappropriate testing of dishwashers that use 140°F inlet water under the provisions for water heating dishwashers, today's proposed definition of water heating dishwashers does not include mechanical timers. DOE would like comments on how, and if, the definition should be amended to include other designs, including mechanical timers.

Today, DOE is proposing the following definition for a water heating dishwasher:

"Water heating dishwasher" means a dishwater that can operate at a nominal inlet water temperature of 120°F by providing thermostatically-controlled internal water heating in at least one wash phase of the normal cycle.

GE further commented that the amended test procedures were unclear as to which testing provisions applied to water heating dishwashers. DOE is proposing a new section to remedy this problem, section 2.7.

2. *Miscellaneous.* DOE has incorporated certain minor technical and editorial changes in today's proposed test procedures that are not specifically discussed above. For example, the parameter for the machine electrical energy consumption is proposed to be changed from "Me" to "M" in section 3.2.2. In section 4.2.1, the parameter for the per-cycle water energy consumption using gas-heated or oil-heated water is proposed to be changed from "We" to "Wg". Finally, in section 4.3.2, the parameter for the per-cycle machine electrical energy consumption is proposed to be changed from "m" to "M".

III. Comment Procedure

a. Written Comment

Interested persons are invited to participate in the rulemaking by submitting data, views, or arguments with respect to the proposed amendments set forth in this notice to the addresses indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Dishwasher Test Procedures (Docket No. CE-RM-82-130)". Seven (7) copies are requested to be submitted. All comments received by the date specified at the beginning of this notice and all other relevant information will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and 6 copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3)

whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

b. Public Hearing

1. *Procedures for Submitting Requests to Speak.* The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. Requests should be labeled "Dishwasher Test Procedures (Docket No. CE–RM–82–130)" both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that have such an interest, and give a telephone number where he or she may be contacted. Each person requesting an opportunity to speak should give a concise summary of the proposed oral presentation.

DOE will notify, by the date indicated at the beginning of this notice, each person selected to be heard at the hearing. Each person selected to be heard is requested to submit seven copies of his or her statement to the address and by the date given at the beginning of this notice. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

2. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and Section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the official statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call (202) 252–5969. In addition, any person may purchase a copy of the transcript from the reporter.

IV. Environmental Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality of distribution of energy usage, prescribing test procedures will not result in any environmental impacts. DOE, therefore, has determined that prescribing test procedures under the energy conservation program for consumer products clearly is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

V. Review Under Executive Order 12291

The proposed rule has been reviewed in accordance with Executive Order 12291 which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. The Executive Order also requires that regulatory impact analyses be prepared for "major rules". The Executive Order defines "major rule" as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rule would amend the definition for water heating dishwashers to allow for more accurate determinations of energy efficiency and cost. Since the act of prescribing test procedures alone does not impose any burden on any person, industry, or government entity, DOE has determined that the proposed rules do not come within the definition of "major rule".

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–345 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in Section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The proposed rule affects manufacturers of dishwashers. As previously discussed, the proposed changes would not have significant economic impacts, but rather would simply improve the test procedures. Therefore, DOE certifies that the proposed rules, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 24, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and renewable Energy.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. Appendix C to Subpart B of Part 430 is amended by revising section 1.6 to read as follows:

1.6 "Water heating dishwasher" means a dishwasher that can operate at a nominal inlet water temperature of 120°F by providing thermostatically-controlled internal water heating in at least one wash phase of the normal cycle.

2. Appendix C to Subpart B of Part 430 is amended by adding a new section 2.7 to read as follows:

2.7 *Testing requirements.* Provisions in this Appendix pertaining to dishwashers which operate with a nominal inlet temperature of 140°F shall apply to all dishwashers with the exception of water heating dishwashers. Provisions in this Appendix pertaining to dishwashers which operate with a nominal inlet temperature of 120°F shall apply only to water heating dishwashers.

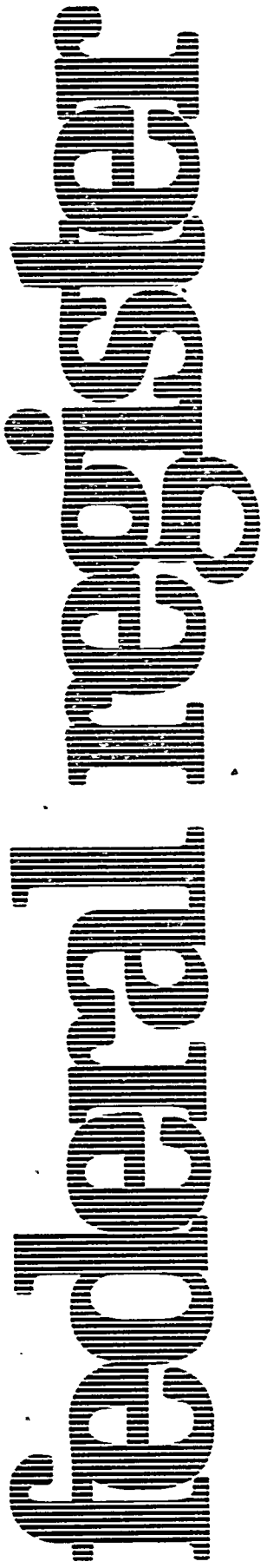
3. Section 3.2.2 to Appendix C to Subpart B of Part 430 is amended by removing the term "Me" for the machine electrical energy consumption and inserting in its place, the term "M".

4. Section 4.2.1 to Appendix C to Subpart B of Part 430 is amended by removing the term "We" for the per-cycle water energy consumption and inserting in its place, the term "Wg".

5. Section 4.3.2 to Appendix C to Subpart B of Part 430 is amended by removing the term "m" for the per-cycle machine electrical consumption and inserting in its place, the term "M".

[FR Doc. 84-14257 Filed 6-1-84; 8:45 am]

BILLING CODE 6450-01-M



Monday
June 4, 1984

Part III

Environmental Protection Agency

40 CFR Part 228

Ocean Dumping; Final Designation of Site; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-FRL 2600-7]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates the existing dredged material disposal site located in the Atlantic Ocean offshore of Jacksonville Harbor as an EPA approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material.

DATE: This designation shall become effective July 5, 1984.

ADDRESSES: The Environmental Impact Statement (EIS) and monitoring plan are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street Southwest, Washington, DC
EPA Region IV, 345 Courtland Street Northeast, Atlanta, Georgia
U.S. Army Corps of Engineers Library, Jacksonville District, 400 West Bay Street, Jacksonville, Florida

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC, 20460, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was last extended on February 7, 1983 (48 FR 5557 et seq.). That list established the Jacksonville site as an interim site and extended its period of use until January 31, 1984. On March 9, 1984, EPA extended this interim designation until January 31, 1985, or until final rulemaking is completed, whichever is sooner (49 FR 8923).

On March 9, 1984, EPA also proposed designation of this site for the continuing disposal of dredged material from the Jacksonville, Florida, area (49 FR 8959). The public comment period expired on April 23, 1984. No letters of comment were received on the proposed rule.

The location of the dredged material disposal site is approximately 5 nautical miles from the mouth of the St. Johns River positioned approximately in a rectangle with coordinates as follows:

30°21'30" N., 81°18'34" W.;
30°21'30" N., 81°17'26" W.;
30°20'30" N., 81°17'26" W.;
30°20'30" N., 81°18'34" W.

The site occupies an area of approximately 1 square nautical mile. Water depths within this area average 14 meters. This site has been used for dredged material disposal since at least 1952. The average annual amount of material dumped during the 19 years in which ocean disposal has occurred was nearly 855,000 cubic yards.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. ("NEPA"), requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA has prepared a draft and final EIS entitled "Environmental Impact Statement (EIS) for Jacksonville Harbor, Florida, Ocean Dredged Material Disposal Site Designation." On May 14, 1982, a notice of availability of the draft EIS for public review and comment was published in the Federal Register (47 FR 20854). The public comment period on this draft EIS closed June 28, 1982. On January 14, 1983, a notice of availability of the final EIS for public review and comment was published in the Federal Register (48 FR 1820). The public comment period on the final EIS closed February 14, 1983. Anyone desiring a copy of the EIS may obtain one from the address given above.

The action discussed in the EIS is the designation for continuing use of an ocean dredged material disposal site near Jacksonville, Florida. The purpose of the designation is to provide the most environmentally acceptable location for the ocean disposal of materials dredged from the Jacksonville Harbor Channel System when ocean disposal is found to be necessary for some dredged material. The need for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

EPA established these 11 criteria to constitute an environmental assessment of the impact of the site for disposal. The criteria are used to make critical comparisons between the alternative sites and are the bases for final site selection. The characteristics of the existing site are reviewed below in terms of these 11 criteria.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(1).]

The site is approximately a square of one square nautical mile area. Its corner coordinates are given above. Water depth ranges from 12 to 16 meters, and the bottom slopes an average of less than one degree to the east. Bottom topography is characterized by a large (up to nine feet) mound in the center of

the site, probably the result of past disposal activities.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* [40 CFR 228.6(a)(2).]

Areas for breeding, spawning, nursery and/or passage of commercially and recreationally important finfish and shellfish species occur on a seasonal basis in and near the St. Johns River.

Adult menhaden (coast herring) generally occur within 32 nautical miles off the coast, and young menhaden use the St. Johns River as a nursery area. Shrimp migrate through the St. Johns River during April through October of each year; thus, considerable efforts are made by the Corps of Engineers to schedule major dredging projects in the St. Johns River before April or after October. This is the case whether the dredged material is to be ocean dumped or disposed of otherwise. The existing site is outside the migratory route of the St. Johns River, and its use during the shrimp or fish migration seasons would have no significant impact on migration into and out of the St. Johns River.

The overall effects of dredging operations on the nursery and passage areas of the St. Johns River have not been determined. However, past dredged material disposal at the existing site has not caused any detectable, significant, or irreversible adverse impacts on living resources.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3).]

The major amenity areas in the vicinity of the existing site are the Jacksonville beaches and offshore fishing areas. The Jacksonville beaches are more than 4.5 nautical miles away from the disposal site. The dredged material has not been reported to have been transported onto the beaches after 28 years of the site's existence; accordingly, EPA has determined that disposal at the existing site will not affect the Jacksonville Beaches.

Popular fishing areas, including natural and artificial reefs, are east (seaward) of the existing site. The center of the disposal site is within a favorite angling area, receiving intense fishing pressure for surface-water species during the summer months. However, previous disposal operations at the site apparently have not prompted severe objection from local fishermen or interfered with the productivity of the fishery.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4).]

The material to be dumped at an offshore disposal site will result from dredging the Jacksonville Harbor Channel System. An annual average (based on 19 years of actual use) of 855,000 cubic yards of dredged material has been dumped at the existing site. However, the quantity of material to be dumped is highly variable and depends upon the requirements of the Jacksonville Harbor Channel System.

Sediments dredged from the outer entrance channel are predominantly sand and shell. Materials dredged from areas other than the outer entrance channel and bar range from sand to silty clay.

Hopper dredge, barge, and scow combinations are the usual vehicles of transport for the dredged material. None of the material is packaged in any manner.

Dredged material may not be approved for ocean dumping unless it meets the criteria in 40 CFR Part 227.

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5).]

The United States Coast Guard is not currently conducting surveillance at the existing site: however, surveillance would be relatively easy because the site is close to Jacksonville. Either shore-based observers or day-use boats could be used for surveillance. Monitoring is feasible at the existing site.

A monitoring plan for the site has been developed and is available for inspection at the addresses given above. Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the site is used. Periodic reports of the monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, notice of availability of reports on such findings and proposed actions will be published in the Federal Register.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* [40 CFR 228.6(a)(6).]

General surface circulation in the vicinity of the existing site is composed of a weak tidal current superimposed on a strong current. During autumn and winter the drift is southwesterly; during spring and summer it is northeasterly. Bottom currents are usually weak (averaging 2.1 centimeters per second), although velocities up to 31 cm/s have been measured. In general, transport of suspended solids from dredged material disposal will depend primarily upon the speed and direction of the wind and secondarily upon the direction of tidal currents.

Significant long-term accumulation or mounding of dredged material has been detected at the existing site by high-resolution profiling at the disposal site conducted before and after disposal operations. Mounds containing a high percentage of consolidated fine material are not easily resuspended and may resist erosion under normal ambient current regimes occurring at the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* [40 CFR 228.6(a)(7).]

Dredged material disposal has produced no significant adverse effects on the water quality at the existing site. Changes in water quality as a result of disposal operations have been of short duration (minutes) and have been confined to relatively small areas. No major differences in finfish and shellfish species or numbers were found in recent surveys within and adjacent to the existing site.

Past use of the existing site has created a localized mound and temporary disturbances of benthic infauna and demersal fish assemblages. High variability in diversity and density of benthic communities within the nearshore region normally exists. This natural variability may obscure the identification of impacts due to past use of the existing site. However, no adverse, cumulative affects are evident from previous disposal operations.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* [40 CFR 228.6(a)(8).]

Shipping, fishing and recreational activities occur in the vicinity of the existing site. Previous dredged material disposal operations occasionally have interfered with fishing activities when the material was inadvertently dropped in transit to the disposal site.

Shipping fairways are not designated in the Georgia Bight. The existing site is situated southeast of the entrance channel, and no conflicts between shipping and disposal operations have been reported to the Corps of Engineers in the 28 years the site has been in existence.

No resource development occurs in the immediate vicinity of the existing site, and no mineral extraction or desalination projects are expected in the vicinity of the site. The existing site and surrounding area are not of special scientific importance. Aquaculture

activities presently do not occur in the vicinity of the existing site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* [40 CFR 228.6(a)(9).]

Investigations of dredged material disposal operations at the existing site have indicated that disposal has had no significant adverse effects on water quality (e.g., dissolved nutrients, trace metals, dissolved oxygen, or pH).

Phytoplankton and zooplankton studies revealed natural seasonal differences in species composition. Diatoms usually dominate the phytoplankton community, although dinoflagellates are abundant during summer. Calanoid copepods dominate the zooplankton community, contributing up to 95% of the total numbers.

Fish and shrimp dominate the nekton community adjacent to the existing site, and species are typical of those reported from the coastal waters all along the Georgia Bight. Several of these species are commercially and recreationally important, including the brown and white shrimp and various reef fishes.

The benthic community in the vicinity of the existing site is characteristic of silty sand. The community is highly diverse in species but low in abundance and biomass; polychaetes are the dominant benthic species.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* [40 CFR 228.6(a)(10).]

There are no components in the dredged material or its method of disposal which would attract or result in recruitment of nuisance species to the existing site. Previous surveys there did not detect the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* [40 CFR 228.6(a)(11).]

The Florida Historical Preservation Officer reported that no natural or cultural features of historical importance exist at or near the existing site.

The existing site is compatible with the criteria used for site evaluation. EPA considered whether it would be preferable to designate a deepwater site off the Continental Shelf. For the following reasons, EPA has determined that the existing site is the preferable site for the disposal of dredged material. These factors are discussed in greater detail in the EIS.

The existing site is 4.5 nautical miles from the mouth of the St. Johns River, whereas the deepwater site considered is more than 60 nautical miles from shore (Criterion 1). Disposal costs and energy consumption involved in use of the deepwater site would be significantly greater than for the existing site due to greater transportation demands.

Dredged material has been dumped at the existing site, and the effects of disposal have been localized. The bottom is silty sand, and the site is located beyond the northward extent of tropical coral formations on the Atlantic coast. The deepwater site has not been used for dredged material disposal (Criterion 7).

The final EIS includes the Agency's assessment of the three comments received during the comment period on the draft EIS. Comments correcting facts presented in the draft EIS were incorporated in the text and the changes noted in the final EIS. Specific comments which could not be appropriately treated as text changes were responded to point by point in the final EIS, following the letters of comment. The only comment on the final EIS was that the concerns expressed on the draft EIS had been satisfactorily addressed.

Based on the information reported in the EIS, EPA is designating the existing Jacksonville site for continuing use for the ocean disposal of dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the existing Jacksonville dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as final rulemaking. Management authority of this site will be delegated to the Regional Administrator of EPA Region IV.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

This rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: May 29, 1984.

Victor J. Kimm,

Acting Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by removing paragraph (a)(1)(iii)(K), the Jacksonville Dredged Material Disposal Site, from § 228.12 and adding to Section 228.12(b) an ocean dumping site for Region IV as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(19) Jacksonville Dredged Material Site—Region IV.

Location: 30°21'30" N., 81°18'34" W.; 30°21'30" N., 81°17'26" W.; 30°20'30" N., 81°17'26" W.; 30°20'30" N., 81°18'34" W.

Size: One square nautical mile.

Depth: Ranges from 12 to 16 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Jacksonville, Florida, area.

[FR Doc. 84-14832 Filed 6-1-84; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Monday
June 4, 1984

Part IV

Environmental Protection Agency

40 CFR Parts 23 and 100

Judicial Review Under EPA-Administered Statutes; Races to the Courthouse; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 23 and 100

[FRL-2547-7]

Judicial Review Under EPA-Administered Statutes; Races to the Courthouse

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In 1980 EPA issued a rule fixing a definitely ascertainable time when Clean Water Act rules would be considered issued for purposes of judicial review. Today's proposal would establish similar rules for other EPA-administered statutes, and is intended to bring greater fairness to "races to the courthouse."

DATE: Written public comments should be submitted to the person listed immediately below by August 3, 1984.

FOR FURTHER INFORMATION CONTACT: Alan W. Eckert, Office of General Counsel (LE-132A), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7606.

SUPPLEMENTARY INFORMATION:

I. Introduction

On April 17, 1980, EPA published a final rule governing the timing of issuance of Agency regulations for the purposes of judicial review under the Clean Water Act. 45 FR 26046. Under that rule, a regulation (such as an effluent limitations guideline) issued under the Clean Water Act is considered issued for purposes of direct appellate judicial review under Section 509(b) of the Act at 1:00 p.m. eastern time on the date that is two weeks after the date when notice of the action appears in the Federal Register.

The purpose of the 1980 rulemaking was to bring greater fairness to so-called "races to the courthouse." In these races, litigants who believe that certain courts are likely to be more receptive to their arguments than others seek by various means to be the first to be informed of an Agency action and then to be the first to file a petition for review in one of the twelve United States courts of appeals. Under 28 U.S.C. 2112(a), any subsequent petition for review in a different court of appeals must be forwarded to the court where a petition was first filed. That court may then forward all the petitions to any other court "for the convenience of the parties in the interests of justice." Of course, as the winner of the race hopes, the court may also retain all the petitions and decide the challenges. The practices of forum shopping and races to the courthouse were described in detail in the preambles to the proposed Clean Water Act racing rule, 44 FR 32006 (June 4, 1979), and to the final rule, 45 FR 26046 (April 17, 1980).

EPA's rule did not eliminate Clean Water Act races to the courthouse, but made them fairer. By setting a definitely ascertainable time of issuance that was two weeks after the publication of the rule in the Federal Register, racers could assure themselves of at least a tie in the race by simply appearing at the clerk's office at the appointed time with a petition for review. The rule eliminated the walkie-talkies, human signalling chains, and open long-distance telephone lines that had characterized earlier races described in the preamble to the proposed rule.

28 U.S.C. 2112(a) provides no explicit direction to courts in resolving ties. However, when petitions for review are filed simultaneously in more than one court, courts have typically conferred among themselves to designate one court to act as the court of first filing. See *United Steelworkers* v. *Marshall*, 592 F.2d 693, 695 (3rd Cir. 1979) (Third and Fifth Circuits agreed to confer); *American Public Gas Ass'n* v. *FTC*, 555 F.2d 852, 861 (D.C. Cir. 1976) (Fifth and D.C. Circuits agreed to confer); *Virginia Electric and Power Co.* v. *EPA*, 610 F.2d 187, 189 n. 5 (4th Cir. 1979) (recognizing appropriateness of conference procedure).

EPA's experience with its racing rule under the Clean Water Act has been entirely satisfactory. Although no reported opinions rely upon the rule, courts and racers alike have relied upon it to determine the priority in time of multiple petitions for review. Moreover, when EPA adopted an identical deferral mechanism prior to issuance of the final Clean Water Act racing rule, the reviewing court upheld it unanimously. *Virginia Electric and Power Co.* v. *EPA*, *supra*.

II. EPA's Experience Under Other Statutes

Racing has been restricted or eliminated by Congress in enacting judicial review provisions in several other EPA-administered statutes. The Clean Air Act, the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act all provide for exclusive judicial review in the D.C. Circuit of EPA's nationally-applicable regulations. These provisions eliminate a great many racing opportunities. Other statutes, however, provide racing opportunities that litigants have exploited.

A. Uranium Mill Tailings Radiation Control Act

Under the Uranium Mill Tailings Radiation Control Act of 1978, EPA must set environmental and health standards governing mill tailings at formerly licensed and commercial uranium and thorium processing sites. Judicial review under the Act is available in any United States court of appeals in which the petitioner resides or has his principal place of business. On September 30, 1983, EPA issued final regulations under this authority and was subsequently sued in the United States Courts of Appeals for the District of Columbia, Third, and Tenth Circuits. The D.C. Circuit petition was filed after the petitioner learned through a telephone call that the EPA Administrator had signed the action. The Tenth Circuit petition was filed after announcement of the action by the EPA Office of Public Affairs. EPA and the parties were forced to litigate the question whether the D.C. Circuit or the Tenth Circuit was the court of first filing for the purpose of 28 U.S.C. 2112(a).

B. The Compound 1080 Predacide Proceeding

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA orders issued following a public hearing are reviewable in the various United States courts of appeals. One such order was issued following EPA's recent hearing to reconsider the Agency's 1972 decision to ban all use of Compound 1080 for predator control. At the conclusion of the hearing, the Administrative Law Judge submitted an initial decision to the Assistant Administrator for Solid Waste and Emergency Response, to whom the Administrator had delegated authority to issue a final decision in the matter. When time for the final decision drew near, one of the parties stationed a staff member in EPA's Office of the Hearing Clerk, where the decision was to be filed. Her presence began to interfere with office activities and she was asked to leave. Subsequently, on the day the final decision was released, representatives of another group of parties established an open line on the only available public telephone, and when the final decision appeared, notified co-counsel at the Tenth Circuit clerk's office over the telephone, who then filed a petition for review two minutes before anyone else could do so.

III. EPA's Response

EPA believes that races to the courthouse disserve the public interest. They waste the time of Agency

employees who must respond to the racers' continual requests for information on the status of pending actions, and they frequently involve expensive, elaborate schemes to be first to file. One particularly ludicrous example is chronicled in EPA's proposed Clean Water Act racing rule, 44 FR 32009 (June 4, 1979). Not only are these schemes unfair to racers with less financial resources; they are undignified parodies of the legal process with which EPA does not wish to be associated.

Accordingly, EPA today proposes to eliminate the worst abuses associated with races to the courthouse under those EPA-administered statutes that allow racing and under which races are reasonably likely to occur. The Clean Water Act rule, adapted as necesssary, has served as the model for this proposal, and is incorporated within it as proposed Section 23.2. EPA welcomes comment on the appropriateness of extending the racing rule to cover these additional regulatory actions.

Section 23.3 Clean Water Act. the proposed Section 23.1, governing judicial review under the Clean Water Act, is closely modeled on existing 40 CFR Part 100, which sets the time of the Administrator's action for purposes of judicial review at 1:00 p.m. Eastern time, two weeks after the date of publication in the Federal Register. However, the provision has been extended to cover EPA actions regarding state-submitted National Pollutant Discharge Elimination Systems (NPDES) permit programs under Section 402 of the Act, and NPDES permit issuance decisions reviewable under Section 509(b)(1)(F). No races have occurred under these provisions. However, these actions could be the subject of a race to the courthouse, and are not covered by the current racing rule. EPA especially solicits comment on the appropriateness of this proposed extension.

Because EPA does not publish notice in the Federal Register of some of the actions covered by Sections 509(b)(1), such as final decisions on appeals of NPDES permit actions to the Administrator, an alternative means of fixing the time of the action for purposes of judicial review had to be devised. The proposed rule follows the existing Clean Water Act rule for any action for which notice is published in the Federal Register. For other actions, the time and date of the action is set at the same time of day, two weeks after the date when the action is signed.

A principal purpose of the rule is to allow any potential litigant to ascertain the correct date easily from the Federal Register and the action documents themselves without resort to extrinsic sources. The litigant can do this simply by inspecting the action document. If in its heading the letters "FRL" appear, it is a "Federal Register document" as defined in section 23.1, and it will not be promulgated for purposes of judicial review until two weeks after it appears in the Federal Register. A typical heading for a Federal Register document might be:

40 CFR Part 425

[FRL-2411-3]

Leather Tanning and Finishing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

Documents that EPA intends to publish in the Federal Register always include an "FRL—" number in brackets, sometimes accompanied by other identification codes. If a document bars no "FRL—" number, the proposed rules rely on the date of signature to identify the action date. EPA's standard practice is to mark all signed documents with the date of signature.

Section 23.3 Clean Air Act. Judicial review under the Clean Air Act is governed by Section 307(b), which restricts judicial review of certain enumerated actions, and any others determined by the Administrator to be "of nationwide scope or effect," to the United States Court of Appeals for the District of Columbia Circuit. Actions covered by the second sentence of Section 307(b), which places judicial review in the court of appeals "for the appropriate circuit," are subject to racing. These include approvals of State implementation plans (Section 110), innovative technology waivers (Section 111(j)), new source waivers (Section 112(c)), delayed compliance orders (Section 113(d)), smelter orders (Section 119), and PSD applicability determinations. EPA is aware of no races that have occurred regarding actions taken under these sections, but races are certainly possible, and EPA accordingly proposes to cover such actions under the racing rules.

The rule parallels the rule described above for the Clean Water Act, except that the action date is not deferred for two weeks if notice is published in the Federal Register. For Federal Register documents, Congress has specified the date of publication in the Federal Register as the trigger date for judicial review. Section 307(b)(1) provides that petitions for review must be filed "within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, * * *" For actions not published in the Federal Register, however, no such restriction applies, and EPA proposes to defer the trigger date until two weeks after signature.

Section 23.4 Resource Conservation and Recovery Act. RCRA rulemaking actions are reviewable only in the D.C. Circuit. However, Congress provided that certain EPA actions on individual RCRA permits, and on state hazardous waste management programs, would be reviewable in the court of appeals for the district in which the petitioner "resides or transacts such business." RCRA section 7006(b). Because races could occur when these actions are taken, we propose to establish an action date for judicial review purposes according to the same system described above for the Clean Water Act.

Section 23.5 Toxic Substances Control Act (TSCA). Section 19 of TSCA provides for judicial review of certain TSCA rules, and quality control orders under Section 6(b)(1), in the United States Court of Appeals for the D.C. Circuit or for the circuit in which the petitioner resides or has his principal place of business. The proposed rule follows the proposed Clean Water Act rule with no substantive changes.

Section 23.6 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA rulemaking generally is not reviewable in the courts of appeals. However, section 16(b) provides for judicial review in the court of appeals for the circuit in which the petitioner "resides or has a place of business" of "any order issued by the Administrator following a public hearing * * *." These include pesticide cancellation and suspension orders after a hearing. Because these orders are entered after hearings to which potential litigants will be parties, the proposed rule sets the trigger date at two weeks after the date of signature, even if the order is published in the Federal Register.

Section 23.7 Safe Drinking Water Act. Like the Clean Air Act, the Safe Drinking Water Act provides for direct court appeals review of both rules and other determinations. Actions may be filed in the "appropriate circuit," which the statute does not define. Because the racing rule must cover both actions that are filed in the Federal Register and those that are not, it is the same as Section 23.1, the proposed Clean Water Act rule.

Section 23.8 Uranium Mill Tailings Radiation Control Act (UMTRCA). This statute provides for direct appellate review only of standards that EPA publishes as rules. Accordingly, the racing rule proposed today makes no

provision for actions that are not published in the Federal Register.

Section 23.9 Atomic Energy Act. Reorganization Plan No. 3 of 1970 transferred to EPA from the Atomic Energy Commission certain of the Commission's authority to issue rules to protect public health and the environment from radiation hazards from source, byproduct, and special nuclear material. Authority to issue these rules appears in 42 U.S.C. 2201, and judicial review of the rules is governed by 28 U.S.C. 2342 and 2343, which allow review in the court of appeals for the circuit where the petitioner resides or has its principal office, or in the D.C. Circuit.

Because EPA's authority is exercised solely through issuance of regulations, the proposed racing rule does not provide for review when notice is not published in the Federal Register. In other respects, the rule follows the Clean Water Act rule proposed above.

Section 23.10 Federal Food, Drug, and Cosmetic Act. Authority to set tolerances for residues of pesticides in foods was transferred by Reorganization Plan No. 3 of 1970 from the Secretary of Health, Education, and Welfare to EPA. Judicial review of certain tolerance-setting orders is governed by 21 U.S.C. 346a(i) and 348(g), which authorize the filing of a petition for review in the court of appeals for the circuit where the petitioner resides or has his principal place of business. This provision applies only when an adjudicatory hearing has been held under 21 U.S.C. 346a(d)(5) or 21 U.S.C. 348(f). The racing rule proposed below follows the proposed Clean Water rule, to allow for actions that may not be published in the Federal Register.

V. Conclusion

Many of the statutes providing for judicial review of EPA actions in the courts of appeals do not centralize that review in one court or otherwise preclude races to the courthouse. EPA cannot by regulation eliminate races that occur under its statutes, but it can, as the courts have suggested, issue rules to simplify the race, and to reduce the waste of resources—both public and private—that racing currently entails. See *International Union of Electrical, Radio and Machine Workers* v. *NLRB*, 610 F.2d 956, 964 (D.C. Cir. 1979). Races presumably will still occur under the rules proposed today, but they will be inexpensive. Because in most cases at least two weeks will elapse between the Agency offical's signature and the triggering time and date for judicial review, there will be no premium on intelligence gathering, open telephone lines, and other trappings of the traditional race. Racers will need only to appear at the courthouse at the appointed time with a petition for review.

These proposed regulations would have no significant economic impact. Their principal economic effect would be to make racing to the courthouse simple and inexpensive, so that litigants who are not well financed (such as small businesses and public interest groups) can compete equally with opponents having greater financial resources. For these reasons, the rules would not have a significant impact on a substantial number of small entities. Similarly, under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because, for the reasons noted above, it should not have any significant economic impacts.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at: Room 545 West Tower, Environmental Protection Agency, 401 M St., S.W., Washington, D.C.

List of Subjects in 40 CFR Part 23

Judicial review.

Dated: May 29, 1984.

William D. Ruckelshaus,
Administrator.

1. 40 CFR is proposed to be amended by adding new Part 23 to read as set forth below:

PART 23—JUDICIAL REVIEW UNDER EPA-ADMINISTERED STATUTES

Sec.

Authority: Clean Water Act, Sections 501(a), 509(b), 33 U.S.C. 1361(a), 1369(b); Clean Air Act, Sections 301(a)(1), 307(b), 42 U.S.C. 7601(a)(1), 760(b); Solid Waste Disposal Act, Sections 2002(a), 7006(a), 42 U.S.C. 6912(a), 6976; Toxic Substances Control Act, Section 19(a), 15 U.S.C. 2618; Federal Insecticide, Fungicide, and Rodenticide Act, Sections 16(b), 25(a), 7 U.S.C. 136n(a), 136w(a); Safe Drinking Water Act, Sections 1448(a)(2), 1450(a), 42 U.S.C. 300j-7(a)(2), 300j-9(a); Atomic Energy Act, Sections 161, 189, 42 U.S.C. 2201, 2239; 28 U.S.C. 2343, 2344; Federal Food, Drug, and Cosmetic Act, Sections 701(a), 408, 409, 21 U.S.C. 371(a), 346a, 348.

§ 23.1 Definitions

As used in this Part, the term:

(a) "Federal Register document" shall mean a document intended for publication in the Federal Register and bearing in its heading an identification code including the letters "FRL."

(b) "Administrator" shall mean the Administrator or any official exercising authority delegated by the Administrator.

§ 23.2 Timing of Administrator's action under Clean Water Act.

Unless the Administrator otherwise explicity provides in a particular promulgation or approval action, the time and date of the Administrator's action in promulgating (for purposes of Sections 509(b)(1) (A), (C), and (E)), approving (for purposes of Section 509(b)(1)(E)), making a determination (for purposes of Sections 509(b)(1) (B) and (D), and issuing or denying (for purposes of Section 509(b)(1)(F)) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on (a) for a Federal Register document, the date that is two weeks after the date when the document is published in the Federal Register, or (b) for any other document, two weeks after it is signed.

§ 23.3 Timing of Administrator's action under Clean Air Act.

Unless the Administrator otherwise explicitly provides in a particular promulgation, approval, or action, the time and date of such promulgation, approval or action for purposes of the second sentence of Section 307(b)(1) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on (a) for a Federal Register document, the date when the document is published in the Federal Register, or (b) for any other document, two weeks after it is signed.

§ 23.4 Timing of Administrator's action under Resource Conservation and Recovery Act.

Unless the Administrator otherwise explicitly provides in taking a particular action, for purposes of Section 7006(b), the time and date of the Administrator's action (a) in issuing, denying, modifying, or revoking any permit under Section 3005, or (b) in granting, denying, or withdrawing authorization or interim authorization under Section 3006, shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is (1) for a Federal Register document, two weeks after the date when the document is published in the Federal Register, or (2) for any other document, two weeks after it is signed.

§ 23.5 Timing of Administrator's action under Toxic Substances Control Act.

Unless the Administrator otherwise explicity provides in promulgating a particular rule or issuing a particular order, the time and date of the Administrator's promulgation or issuance for purposes of Section 19(a)(1) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is (a) for a Federal Register document, two weeks after the date when the document is published in the Federal Register, or (b) for any other document, two weeks after it is signed.

§ 23.6 Timing of Administrator's action under Federal Insecticide, Fungicide and Rodenticide Act.

Unless the Administrator otherwise explicity provides in a particular order, the time and date of entry of an order issued by the Administrator following a public hearing for purposes of Section 16(b) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is two weeks after it is signed.

§ 23.7 Timing of Administrator's action under Safe Drinking Water Act.

Unless the Administrator otherwise explicitly provides in a particular promulgation action or determination, the time and date of the Administrator's promulgation, issuance, or determination for purposes of Section 1448(a)(2) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is (a) for a Federal Register document, two weeks after the date when the document is published in the Federal Register or (b) for any other document, two weeks after it is signed.

§ 23.8 Timing of Administrator's action under Uranium Mill Tailings Radiation Control Act of 1978.

Unless the Administrator otherwise explicitly provides in a particular rule, the time and date of the Administrator's promulgation for purposes of 42 U.S.C. 2022(c)(2) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is two weeks after the date when notice of promulgation is published in the Federal Register.

§ 23.9 Timing of Administrator's action under the Atomic Energy Act.

Unless the Administrator otherwise explicitly provides in a particular order, the time and date of the entry of an order for purposes of 28 U.S.C. 2344 shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is two weeks after the date when notice thereof is published in the Federal Register.

§ 23.10 Timing of Administrator's action under the Federal Food, Drug, and Cosmetic Act.

Unless the Administrator otherwise explicitly provides in a particular order, the time and date of the entry of an order issued after a public hearing for purposes of 21 U.S.C. 346a(i) or 348(g) shall be at 1:00 p.m. eastern time (standard or daylight, as appropriate) on the date that is (a) for a Federal Register document, two weeks after the date when the document is published in the Federal Register, or (b) for any other document, two weeks after it is signed.

§ 23.11 Holiday.

If the date determined under §§ 23.2 to 23.10 falls on a federal holiday, then the time and date of the Administrator's action shall be at 1:00 p.m. eastern time on the next day that is not a federal holiday.

PART 100—JUDICIAL REVIEW UNDER CLEAN WATER ACT

2. 40 CFR Part 100 is hereby proposed to be revoked.

[FR Doc. 84-14020 Filed 6-1-84; 8:45 am]
BILLING CODE 6560-50-M

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).